TRIAL

OF THE

ASSASSINS AND CONSPIRATORS

FOR THE MURDER OF

ABRAHAM LINCOLN.

(SIXTEENTH PRESIDENT OF THE UNITED STATES.)

PORTRAIT OF MRS. SURRATT.

The Evidence in Full, with Arguments of Counsel on both sides, and the Verdict of the Military Commission.

PHILADELPHIA:
BARCLAY & CO., 602 ARCH STREET.

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ATTEMPTED ASSASSINATION OF WM. H. SEWARD, SECRETARY OF STATE.

TRIAL

OF THE

ASSASSINS AND CONSPIRATORS

FOR THE MURDER OF

ABRAHAM LINCOLN,

AND THE ATTEMPTED ASSASSINATION OF

VICE-PRESIDENT JOHNSON AND THE WHOLE CABINET.

THE MOST INTENSELY INTERESTING TRIAL ON RECORD.

CONTAINING

THE EVIDENCE IN FULL, WITH ARGUMENTS OF COUNSEL ON BOTH SIDES, AND THE VERDICT OF THE MILITARY COMMISSION.

CORRECT LIKENESSES

AND GRAPHIC HISTORY OF ALL THE ASSASSINS, CONSPIRATORS, AND OTHER PERSONS CONNECTED WITH THEIR ARREST AND TRIAL.

PHILADELPHIA:
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THE TRIAL OF THE ASSASSINS

APPEARANCE OF THE CONSPIRATORS—THE CHARGES AGAINST THEM.

The Court is held at the old penitentiary in Washington, in an upper room, with two windows at the east and two at the north. These windows are ironed with flat bars. Along the wall, on the west side, on raised seats, were the prisoners, Dr. Mudd, David C. Harrold, Lewis Payne, Edward Spangler of Ford's Theatre, Michael O'Laughlin, Atzerodt, and Samuel Arnold. Sitting outside the paling was Mrs. Surratt, leaning on a small green baize table. Beyond Mrs. Surratt, on the other side of the table, near the northern windows, sit the counsel for the accused, who are as follows—Mr. Thomas Ewing, son of the Ohio ex-Senator, Attorney Stone, Mr. Walter S. Cox, the Hon. Reverdy Johnson, and Messrs. Aiken and Clampett. Dr. Mudd looked calm, collected, and attentive, leaning on a table as if to relieve his wrists from the weight of the handcuffs that incumbered them. Arnold was restless, raising his hands to his hair with a nervous twitching, and constantly varying the direction of his looks—now glancing from face to face, then bowing his head upon his hands, which he supported on his knees. His handcuffs were somewhat peculiar, not being connected, as usual, with a chain, but by a bar about eight inches in length. Payne, dressed in a gray woolen shirt and dark pants, seemed more intent in trying to obtain a full view of the sunny landscape through the barred windows than of confining his attention to the details of the proceedings. As he looked, a strange listless dreaminess pervaded his face. His dark hair, irregularly parted, hung over his face and often clouded his dark-blue eyes. His thick and somewhat protruding lips were as if glued together. His legs were crossed, and his ironed hands rested upon his knees. O'Laughlin was keenly observant of every move made in the court. He leaned back with his head against the wall, fully exposing his broad but not high forehead, crowned with a full bushy head of black hair. He has dark eyes, and a pale bloodless complexion, and wears a heavy mustache and wide imperial, both very black. On his knees he rested his manacles, which, like those of Arnold, were connected with an eight-inch iron bar. Atzerodt is a man of some five feet six inches in height, and had it not been for his manacles might have been taken for a mere spectator. He possesses a style of face most common in Southern Germany. His hair and beard are of a reddish, sandy color: His eyes are light. One police-officer sat beside each prisoner. Mrs. Surratt is a stout, buxom widow, fitting Falstaff's ideal—"fair, fat and forty"—though it is ascertained she is far beyond that period of life, having nearly reached her grand climacteric. She was dressed in black, and looked a little flushed; but we failed to notice that "cold, cruel gleam in her gray eyes" which some of the gentlemen of the press have attributed to them.

The charges against the conspirators accuse them of conspiring together with one John H. Surratt, John Wilkes Booth, Jefferson Davis, George N. Sanders, Beverley Tucker, Jacob Thompson, William C. Cleary, Clement C. Clay, George Harper, George Young, and others unknown, to kill and murder Abraham Lincoln, Andrew Johnson, and Ulysses S. Grant, President, Vice-President, and Lieutenant-General of the United States. The specifications accuse Harrold of aiding Booth to murder the President; Payne of an assault on William H. Seward, Secretary of State, F. W. Seward, A. H. Seward, E. W. Hansel, and G. F. Robinson, with an intent to murder; Atzerodt with an intent to kill Andrew Johnson; Michael O'Laughlin with an intent to murder Ulysses S. Grant; and Samuel Arnold, Mary E. Surratt, Samuel A. Mudd, and Edward Spangler, with aiding and assisting the conspirators in their designs. It appears from the minutes of the Military Court that on Saturday, Samuel Arnold, through his counsel, Thomas Ewing, Jr., set up the plea that this Military Court has no power to try him on the charges preferred, for the reason that in these times of peace, resort should be had to the civil tribunals. The Court, after deliberation, overruled the plea. Arnold then asked that he be tried separately from the others, but this request was also denied.

FIRST DAY'S PROCEEDINGS.

On Saturday, the 13th instant, the Court engaged in the trial of the assassination conspirators at Washington altered one of its rules so as to admit the reporters for the press. The testimony taken heretofore in the case of the several parties arraigned was a portion of that which the government deems it necessary, for the present, to withhold from the public. When that testimony had all been rendered, Brigadier-General T. W. Harris stated that he arose to object to the admission of Reverdy Johnson as counsel pleading before that court, and that he did this upon the ground that, in an opinion delivered by Mr. Johnson, that gentleman had expressed his disregard of the sanctity of an oath. After an explanation by Mr. Johnson, General Harris withdrew his objection, and the court then proceeded to the examination of witnesses.

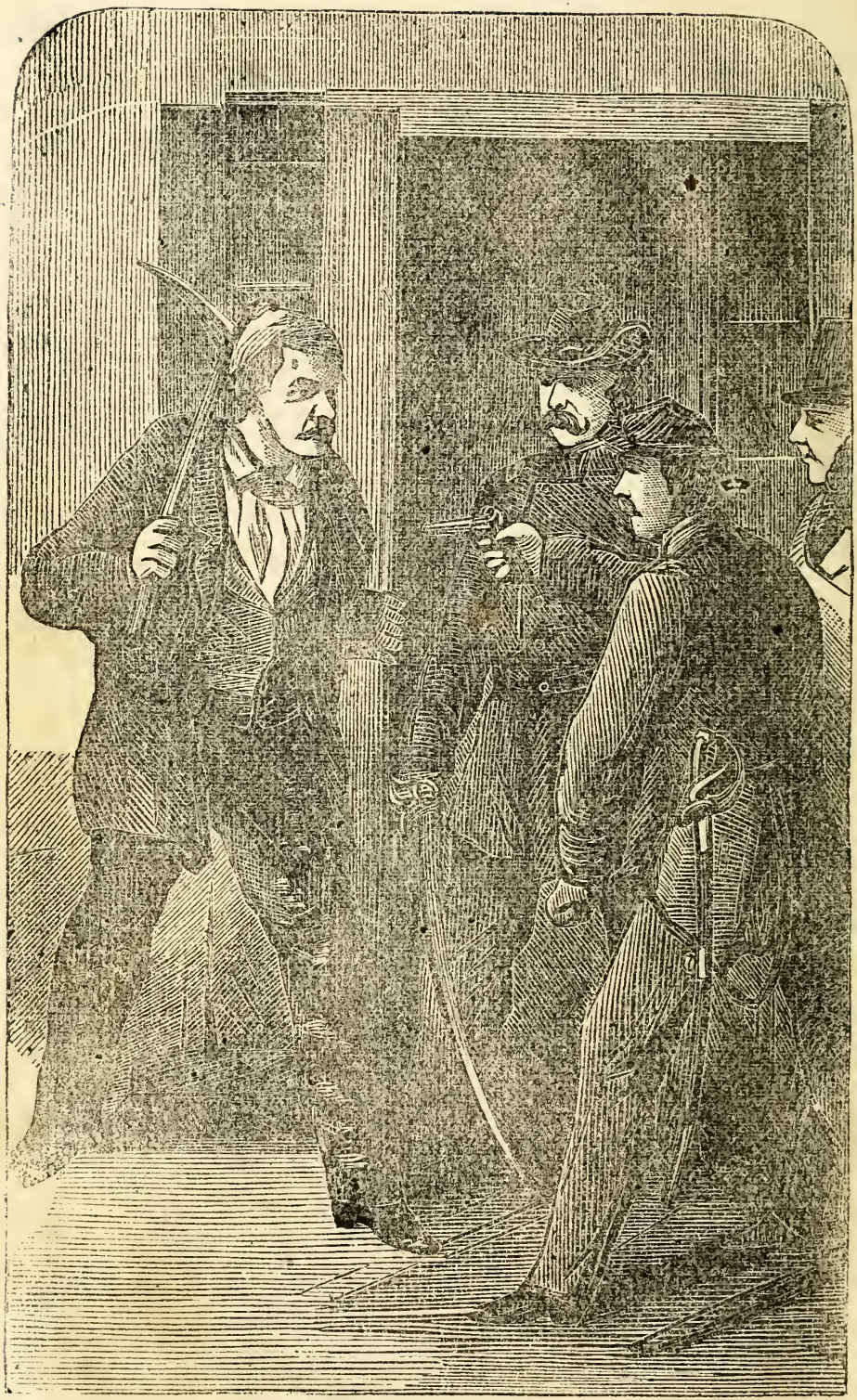
ATZERODT'S ROOM AT THE KIRKWOOD HOTEL.

A. W. Lee, a military detective, being sworn, testified that on the night of the 15th of April, by orders, he examined the room of Atzerodt at the Kirkwood House; a friend told him that a suspicious person had taken the room a day or two previous, and he had better go and look; he found in the register, badly written, the name of "E. A. Atzerodt;" he then went to the room, No. 126, with one of the proprietors, and, as no key could be found, burst open the door, and saw a coat hanging on the wall. Colonel Burnett here ordered a bundle to be passed to the witness. This bundle, on being opened by the Colonel, was found to be a coat, rolled in which were sundry small articles. Witness recognized the coat, and testified that he took out of the pockets thereof a book containing an account on the Ontario Bank for $455; in the back of the book, was the following: "Mr. J. Wilkes Booth, in account with the Bank of Ontario, $450." Witness took three handkerchiefs from the pocket of the coat, one marked "Mary R. Booth," a second "F. A." or "F. E. Nelson," and a third "M. H.;" a new pair of gauntlets, three boxes of pistol cartridges, a spur, a pair of socks, a piece of liquorice, and a brush were also taken from the pockets of the coat. Underneath the pillow or bolster of the bed witness found a revolver bound with brass, and underneath the mattress "I got those bowie-knives." Here a knife was shown the witness and handed to the various members of the court. It was a long, stylus-shaped, like that used by Booth, horn-handled and sheathed in red leather. The room was over the one occupied by Vice-President Johnson. On cross-examination, witness testified that he had never seen Atzerodt to his knowledge; that he did not find any signature of Atzerodt in the room, and that he had no other evidence of its being his room except that of the hotel-register. The person who first called his attention to Atzerodt's occupation of the room as a suspicious character was a clerk or private watchman in the building. [Lee's testimony was afterwards corroborated by the evidence of Robert R. Jones, the clerk who recognized Atzerodt as the man who hired the room.]

THE SURRATT FAMILY.

Lewis A. Weichmann was then sworn, testifying that he made John H. Surratt's acquaintance in the fall of 1859, being together at Charles county, Md., until 1862; renewed his acquaintance in Washington in January, 1863; commenced boarding with his mother in her house, No. 541 H street, on November 18, 1864. Witness then identified Mrs. Surratt. Became acquainted with Dr. Mudd about the 15th of January last. Met him while walking Seventh street with Surratt; Surratt introduced witness, and Dr. Mudd introduced J. Wilkes Booth, who took the party to his room at the National Hotel, and furnished wine and cigars, after which Mudd and Booth went out in the passage and held a private conversation. Mudd soon returning and calling out Surratt, leaving witness alone some twenty minutes; when they re-entered, Mudd apologized, saying he had private business with Booth, who wished to purchase his farm; witness saw no maps on the table, but Booth at one time cut the back of an envelope and made marks on it with a pencil; should not consider it writing, but marks alone; they were seated at a table in the centre of the room; just saw the motion of the pencil; Booth also came to witness and apologized, and said he wished to purchase Mudd's farm: Mudd had previously stated that he did not care to sell his farm to Booth, as he was not willing to give him enough for it. After this, Booth frequently called at Mrs. Surratt's to see John Surratt, or, if he was absent, his mother; these interviews were always apart; when witness was in the room with the Surratts, Booth frequently called them out for private interviews, which would sometimes last for several hours. Witness then identified Atzerodt, saying that he visited Mrs. Surratt's ten or fifteen times, always inquiring for John H. He first came there three weeks after witness formed Booth's acquaintance; never saw him in the house with Booth. The ladies in the house called him "Port Tobacco." Met him once on the corner of Seventh street and Pennsylvania avenue; it was about the time that Booth played Pescara, in the Apostate; Booth had given Surratt two complimentary tickets on that occasion, and they went down and saw Atzerodt; we told him where we were going, and he said he was going along, too, and at the theatre we met David C. Harrold.

[Here the witness was asked if he knew Harrold, at which Harrold inclined his head and laughed.] Witness answered in the



ARREST OF PAYNE.

affirmative, and stated that after the play Atzerodt and Harrold left Surratt and himself, and they afterwards found them in a restaurant, talking confidentially with Booth. Surratt kept two horses at Howard's stables, on G, Sixth and Seventh streets; saw Atzerodt there at 2½ P. M., of the day of the assassination. "He seemed to be hiring a horse; I had been sent by Mrs. Surratt to hire a buggy; when I got there I saw Atzerodt, and asked him what he wanted; he said 'to hire a horse;' he asked Booth if he could have a horse, and he told him he could not; then we left, and both went as far as the Post-Office; I had a letter to draw, and after that he went off toward Tenth street." Witness testified that on Tuesday previous Mrs. Surratt sent him to the National Hotel to get Booth's buggy, as she wanted to drive out in the country. Booth said he had sold his buggy, but gave witness $10 to hire one. Drove Mrs. Surratt out to Surrattsville. On Friday, the day of the assassination, also drove her there. Witness testified that in March, the prisoner Payne, under the name of Wood, stopped at Mrs. Surratt's house all night, and left early in the morning for Baltimore. Three weeks afterward he called again, representing himself as a Baptist preacher, and said he had taken the oath of allegiance, and was going to become a good, loyal citizen. Heard no explanation why he said he was a Baptist minister. Mrs. Surratt said he was a meek-looking Baptist preacher. The ladies seemed to recognize him as the former Wood. One day I found a false mustache on the table in my room; I threw it into a little toilet box, and Payne searched for it and inquired for his mustache; I was sitting on the chair and didn't say any thing; I retained it ever since; it was found in my baggage among a box of paints I had in my trunk; on the same day saw him and Surratt in the third story sitting on a bed, playing with bowie-knives; saw also revolvers and four sets of new spurs. Here the witness was shown a spur, and identified it as one of those he had then seen, saying: "Yes, those are the spurs; three of those were in my room." It was the spur found in Atzerodt's room. The witness was then shown the knife which had been identified by Mr. Lee as the one found in Atzerodt's room, but the witness stated that he did not recognize it, and that the knife that Hayes had on the bed was a smaller one. Here the witness was shown the pistol produced during Lee's examination and said: "That looks like one of them." The barrel was octagonal; witness remembered that on the 12th of March he went with Surratt to the Heredon House to hire a room; Surratt inquired for Mrs. Mary Murray, and when she came he had a private interview with her, but said she did not seem to comprehend, though he thought that a Miss Ward had spoken to her already on the subject, and he said to Mrs. Murray: "Miss Ward may have spoken to you about the matter of hiring the room for a delicate gentleman;" and Mr. Surratt added, "he would like to have the room by the following Monday, as the gent wants to take possession on that day." I think that was the Monday previous; it was the 27th of March; afterward witness met Atzerodt in the street and asked him where he was going; he stated that he was going to see Payne; I asked him, "Is it Payne that is at the Heredon House?" and he said "Yes." Witness testified that he had met Harrold three times at Mrs. Surratt's, at the theatre when Booth played Pescara, and at a Catholic church. Witness testified that on March 17, a woman named Slader, a rebel bearer of despatches or blockade-runner (so Mrs. Surratt said), came to the house: she went to Canada, and returned on March 23, leaving on that day for Richmond; John Surratt accompanied her; he returned on April 3, bringing considerable gold and greenbacks; he left home that evening, and since that time witness had not seen him; saw a letter to his mother since then, dated April 12; in conversation with him, before he left, in regard to the fall of Richmond, he told me he didn't believe it; he said he had seen Benjamin and Davis, and they had told him that it would not be evacuated, and he seemed to be incredulous. Witness stated that he had been to Canada since, and had learned that Surratt arrived at Montreal on the 6th, and returned for the States on the 12th, returning again on the 18th, and engaging rooms in the St. Lawrence Hall; he left the St. Lawrence that night at 10½ o'clock; he was seen to leave the house of a Mr. Butterfield in company with three others in a wagon. (Objected to; and the statement not insisted on as a part of the record). Witness stated that previous to his driving Mrs. Surratt into the country on the day of the assassination, Booth held a short interview with her.

Witness was cross-examined by Reverdy Johnson. Was on very intimate terms with John Surratt; never knew him go to Canada before; told me he was going to Europe on a cotton speculation; saw him every day, occupied the same room, and slept with him; never received any intimation of the assassination from him. Witness first heard of the assassination at 3 o'clock A. M., of the 15th; before that time the door-bell rung; Mrs. Surratt answered it; some one came into the parlor and immediately went out again; don't know who it was; this was about 10 o'clock P. M., of the 14th. Witness stated that Mrs. Surratt's character was exemplary and ladylike, and she was a member of the Catholic Church. Mr. Johnson then left the room and the cross-examination was continued by the other counsel. Being questioned sharply in reference to the envelope on which Booth was writing at his first interview with him, witness said Booth traced lines on the back of an

envelope, and that Surratt and Mudd were looking at it, and they were engaged in deep private conversation, scarcely audible; had heard the name of Mudd mentioned in the Surratt family; was sure that Mudd and Surratt were looking at the envelope when Booth was marking it; went to Canada for the purpose of seeking Surratt; knew of interviews between Atzerodt and Surratt; also between Payne and Atzerodt, at Mrs. Surratt's house. Witness stated that he recognized the spur handed him as one of the four pair he saw in the room with Payne and Atzerodt, because he had them in his hand. The cross-examination developed nothing further new.

BOOTH AND HARROLD AT SURRATTSVILLE AFTER THE MURDER.

Mr. Floyd, of Surrattsville, was then sworn. Counsel for the defence wished Mr. Floyd's examination postponed on account of Mr. Reverdy Johnson's absence, but the Court refused it. Mr. Floyd testified that he knew Surratt, Harrold, and Atzerodt, and that they were at his house in Surrattsville some five weeks before the assassination. They left at witness's house two carbines, some ammunition, and a rope sixteen or twenty feet long. "Surratt asked me to take care of them, and I told him I didn't like to have these things in the house; he then carried me into a room I had never been into before, and showed me where I could place them under a joist." Witness concealed them with a cartridge-box, as directed. On Monday preceding the murder Mrs. Surratt visited the prisoner, and, after referring to the "shooting irons," said they would be wanted soon. About 5 P. M., of the day of the assassination, Mrs. Surratt met witness at his wood-pile, and told him to have them shooting irons ready that night, and said there would be some parties call for them that night; she gave him something in a piece of paper to keep for her, and he found it was a field-glass; she asked him also to have two bottles of whiskey ready, saying they would be called for that night. They both came, Booth and Harrold; they took their whiskey out of the bottles; Booth didn't come in, but Harrold did; it was not over 12¼ o'clock; Booth was a stranger to witness; Harrold came in and took the whiskey, but don't think he asked for the whiskey; he said, "Get me these things." Gave him all the articles with a field-glass and a monkey-wrench; they remained about five minutes, taking but one carbine, Booth saying he could not take his, as his leg was broken As they were about leaving, Booth said: "I will tell you some news; I am pretty sure we have assassinated the President and Secretary Seward." The first witness heard of the assassination afterward, was at 9 A. M., of the 15th. On cross-examination witness stated that when he met Mrs. Surratt on the day of the murder, the first thing she said was: "Talk about the Devil and one of his imps will appear." Then she said: "Mr. Floyd, I want you to have those shooting-irons ready. Some parties will call for them to-night." She gave me a bundle, but I did not undo it until up-stairs, and found it was a field-glass. Witness said the first time he related these particulars was on the Saturday week following, to three army officers, telling them that it was through the Surratt's he got himself into difficulty; witness learned of the murder next morning from the soldiers; did not tell them of Booth and Harrold's midnight visit, and was sorry he did not; witness was arrested on the Thursday following; on the night in question Booth rode a white horse and Harrold a bay; nothing of interest was hereafter elicited, though the cross-examination was very lengthy, three of the counsel being engaged therein.

The Court then adjourned to 10 o'clock Monday morning.

PROCEEDINGS ON MONDAY, MAY 15th.

On the 15th instant, Weichmann and Lloyd were re-examined. No important fact was developed, however, with the exception that Lloyd partly identified one of the carbines referred to in his testimony. Mary Van Tine of No. 240 G street, Washington, testified that she rented rooms on February 10, to Arnold and O'Laughlin, and that Booth frequently visited them, being at times very anxious to see the latter. Booth told her that they were in the oil trade. He left in the latter part of March. Henry Williams, a colored man, testified to carrying letters from Booth to Arnold and O'Laughlin, in Baltimore, about the middle of March. J. P. Early testified to being with Arnold and O'Laughlin on April 13 and 14th. On the morning of the 14th O'Laughlin had a private interview with Booth at the Metropolitan Hotel. Upon being questioned as to seeing O'Laughlin at the hour of assassination, witness stated that at that time he was drunk, and could not remember. Went to Baltimore with him at 3 P. M., of Saturday from Washington. Samuel R. J. Strugg testified to the intimate association of O'Laughlin with Booth. L. J. Sprague was examined, and corroborated the testimony of Detective Lee as to what was found in Atzerodt's room at the Kirkwood.

David Stanton identified O'Laughlin, and testified that he saw him on the night of April 13, lurking in the hall of Secretary Stanton; asked his business; he inquired for the Secretary; this was about 10½ o'clock; there was a crowd there, and a band serenading Grant and Stanton; the prisoner gave no explanation as to how he came there, and, upon being ordered off, he left; at that time General Grant was in the next room. On cross-examination witness said he never saw the man before; the hall was lighted up, and he

had a good view of the prisoner, who had the same beard as at present.

D. C. Reed swore positively that he saw John H. Surratt at 2½ P. M., of the 14th, in Washington, near the National Hotel and bowed to him; he had on a pair of new brass-plated spurs, with very large rowels; Surratt returned his bow. Peter Flattervail, saloon-keeper near Ford's Theatre, testified that ten minutes before the murder of President Lincoln Booth walked to his bar and took a glass of whiskey; Harrold had inquired for him previously. Sergeant J. M. Dye, after recognizing Booth's photograph, testified that on the night of April 14, about 7½ o'clock, he saw Booth and three others conversing in front of Ford's Theatre, and at the end of the second act Booth said, "I think he will come out now," apparently referring to the President; the President's carriage was standing there; after a whispered consultation, during which Booth went into the passage leading from the stage to the street, one of the party called out the time, and they hastily separated; Booth then entered the theatre; before this, time was called again, "ten minutes after ten." Witness thought the prisoner Spangler would look like one of the men if he had a mustache. Refus Stabler, keeper of a livery-stable on G street, corroborated the testimony of Weichmann in reference to Surratt's intimacy with Atzerodt; the latter told him of Surratt's visit to Richmond, and said the detectives were after him; in March, Booth and Surratt kept horses at his stable. J. W. Humphrey, stabler, said that on the afternoon of April 14, Booth hired of him a bay mare, which he had never seen since; Booth was in the habit of hiring horses from him; Surratt introduced him. Captain Theodore McGovern testified to seeing Booth hand the President's messenger a card before entering the box; witness described the scene in the theatre. Major Rathbun, who was in the box with the President, also described the scene. Their testimonies do not differ from accounts heretofore published. William Withers, musician at Ford's Theatre, testified that he was on the stage when Booth jumped from the box; recognized the man as Booth. Did not recollect of seeing Spangler, the carpenter, that night; he was not in his place; never saw Spangler with a mustache; the actor's private door, at which Booth ran out, was open; it was unusual. The witness Stabler was then recalled, and identified a horse, belonging to Surratt, which was taken from his stable by Atzerodt on March 31. Joe Simmons (colored) of Ford's Theatre, testified to seeing Booth behind the curtains between 5 and 6 P. M., of April 14; Booth and Spangler were very intimate, and went out for a drink. John Mills (colored) testified that about 9 or 10 P. M., of April 14, Booth brought a horse up to the back door, and called Ned Spangler out from the theatre three times; John Peanut held Booth's horse; when Spangler was called he would leave his work and go out; after the President was shot, saw Spangler outside the door Booth went out of; in the alley back of the theatre, previous to the murder, were several strangers in consultation with Booth; when witness spoke to Spangler about it, the prisoner told him not to say any thing; he was much excited, and they were all agitated; the remark, "Hush, do not say any thing about it," was immediately after the murder. John Selegman, of the theatre, testified to Booth's calling Spangler; Booth said: "Help me all you can, won't you?" he replied, "O, yes;" this was when he first rode up to the back door on the horse, Booth had access to the theatre at all times.

At the conclusion of the testimony the Judge Advocate-General remarked that to enable the Court to understand perfectly the testimony of witnesses relative to the occurrence in the theatre, it would be proper for them to visit the theatre, and observe for themselves the different localities. It was therefore determined that the members of the Court meet informally at Ford's Theatre, on Tenth street, on Tuesday, May 16, at 9½ o'clock A. M. The Court adjourned formally until 10 A. M., on Tuesday, May 16.

PROCEEDINGS ON TUESDAY, MAY 16th.

On Tuesday morning the court visited Ford's Theatre, and made themselves familiar with the locality and surroundings of the President's assassination. On re-entering the court-room many eyes instinctively turned toward Spangler, who sat down listlessly, and leaned back against the wall, staring vacantly. During the reading of the record, Mr. Daniel Stanton, who was present, was permitted to amend the record of his own testimony given on the previous day. In the amendment, in answer to the question, "Did he ask in regard to Gen. Grant?" now read, "I meant to say that the man did ask for Gen. Grant," in lieu of "I don't recollect that he did." Mr. Stanton also added, that the man referred to said he was a lawyer, and knew Mr. Stanton very well.

The first witness called was John Barrow, alias "Peanuts," mentioned in Simmons' testimony as holding Booth's horse, back of the theatre. Witness testified that between 9 and 10 P. M., of April 14, the prisoner Spangler gave him Booth's horse to hold; heard the report of the pistol in the theatre; when Booth came out he halloed "Give me the horse," and knocked witness down. Witness testified that he was in the President's box with Harry Ford and Spangler on that afternoon, assisting in its decoration, and that Spangler damned the President and Gen. Grant; witness attended the door through which Booth escaped; Spangler called him off to hold the horse, and said if any thing

went wrong to lay the blame on him. Witness was questioned in reference to the bar found at the door of the President's box, but could give no information as to how it came there. Mary Ann Turner and Mary Jane Anderson, colored women, residing in the rear of Ford's theatre, heard Booth call Spangler in the alley on the night in question; witness identified Spangler; saw Booth about 4 P. M., of that day at the back-door of Ford's Theatre talking with a lady; a man named Maddox was in the alley with Booth and Spangler; witness testified that Spangler, Maddox and Peanuts held the horse alternately.

William A. Browning, Secretary of Andrew Johnson, testified that the clerk, Jones, gave him a card at the Kirkwood House, in the presence of Booth, between four and five o'clock P. M., of April 14th, on which was the following—(reading from the card)—"Don't wish to disturb you; are you at home?—J. Wilkes Booth." The card was sent to Mr Johnson, then Vice-President. Mr. Johnson was in his room that evening. Major Kilbourne Knox was then called, and corroborated the testimony of David Stanton in reference to the suspicious actions of McLaughlin at the house of Secretary Stanton on the night of the 13th instant. John C. Hatter, clerk in the War Department, was then sworn, and identified McLaughlin as being at the Secretary's house on the night of the thirteenth, and inquiring of witness if Gen. Grant was in, stating that he wished to see him; witness told him that was not the time nor place to see him, and he walked away seemingly in reflection. Gen. Grant, his wife, and others, were in the house at the time. O'Laughlin intruded into the house, and in response to a question, said he was a lawyer and very well acquainted with Secretary Stanton. O'Laughlin appeared to be drunk, and made especial inquiry to have a look at Gen. Grant. This was about nine o'clock. Dr. Stone testified as to the condition of President Lincoln after the shooting. The ball extracted from the head was exhibited, and he identified it by the initials "A. L." which he had scratched upon it with a pen-knife. The ball was larger than the usual pistol-balls. Sergeant Cobb, who, on the night of the assassination, was on duty at the Navy Yard bridge, testified as to Booth and his companion passing into Maryland. Booth, on being challenged, said he was going to his home in the country, near Greentown; they were all on horseback; three men passed separately; from a photograph handed him, witness recognized Booth as the first who passed; the second man said his name was Smith, that he was going to White Plains; witness asked him how he came to be out so late; he made use of a rather indelicate word in replying, from which I should judge he had been in bad company; the other man turned back—he did not seem to have sufficient business to warrant witness in passing him; the men passed at intervals of five minutes; the third man asked if a man on a roan horse had passed lately; Booth rode a bay horse, and the second man a roan horse. Polk Gardiner testified that on the night of April 14th, he was on the road between Washington and Bryantown, and about eleven o'clock met two horsemen riding very fast; one rode a bay horse and the other a dark one; the first stopped and asked witness the road to Marlborough; the first asked witness if the road did not fork a little ahead, and if he did not turn to the right; witness told him no, to keep straight ahead; the two men were about half a mile apart. Will. F. Kent identified the pistol picked up in the theatre box; it was a Derringer.

Lieut. Alexander Lovett testified that on April 18th, while he was pursuing the murderer, he went to Dr. Mudd's house, some thirty miles from Washington, and inquired concerning Booth; the Doctor said that at day-break of the fifteenth two strangers came to his house, one of them having a broken leg, and he set the leg; the Doctor said they remained but a short time, and said that he had heard of the murder on the 16th; he said that one of them borrowed a razor and shaved off his mustache, and the injured man had a pair of crutches made for him; the Doctor further stated that he showed them the way across the swamp to Allen's Fresh. On the 21st, Lieut. Lovett again visited Mudd, and discovered Booth's boot in the house with "J. Wilkes" written on the inside of the leg; the Doctor owned he had cut it off to save the man's leg; when asked if he knew Booth, he gave contradictory answers; when witness told him they would have to search the house the Doctor sent his wife up-stairs after the boot; his wife said Booth stayed at the house all day Saturday; when the Doctor was asked about Booth, he became much excited, and turned very pale; his answers were always evasive. Officer Lloyd, who went in pursuit of the fugitives, said Dr. Mudd at first denied seeing them, but afterward recollected it was Booth's leg which he had set, the latter having been somewhat disguised. Provost-Marshal H. H. Willes gave a statement made to him by Dr. Mudd on April 21st, but it does not differ materially from the story drawn out of him by Lieut. Lovett. The court then adjourned.

WEDNESDAY'S EVIDENCE.

According to William Williams, a witness before the court to-day, Dr. Mudd denied altogether that there had been any strangers at his house. Mudd seemed uneasy and not willing to give information without being asked, but he subsequently said he had set Booth's leg.

Simon Garacon testified that he was at Dr. Mudd's house on Tuesday succeeding the assassination, when Mudd then said some one had come past with a fractured leg, and that he had helped him into his house. He stated that the parties left, the Doctor accompanying them part of the way. Mudd on Tuesday denied that he knew them. When on Friday the witness went to arrest Mudd, the latter stated he thought it was Booth who was at the house. The officers were about to search the house, when Mrs. Mudd threw a boot down-stairs, on the lining of which were the words, "J. Wilkes." As Mudd stated, the man who was there had whiskers—Mudd said he had been introduced to Booth last fall, but did not identify him.

Willie S. Jett, who had been in the army as Commissary Agent in Caroline county, testified that on the 18th of April he saw a wagon near Fort Conway; as he drew near, Harrold, who was there, said his brother had been wounded; Harrold called out to witness; and said he supposed they were raising a command to go South; Harrold then said, "We are the assassins of the President;" Booth came up and Harrold introduced him as his brother under the name of Boyd, and they crossed the river; witness and his companions, with Harrold, went on to Bowling Green, leaving Booth on the way at Garrett's, to whose house Harrold returned; witness and his companions were dressed in gray, and of course, he said, Harrold must have known who they were.

On cross-examination Harrold did not say he was the assassin, but "We are the assassins," and pointing to Booth, remarked, "Yonder is the man who killed the President."

Harrold appeared to be much excited at the time.

Col. Conger and Sergt. Corbett testified as to the facts connected with the pursuit of the assassins and the shooting of Booth, and the arrest of Harrold, substantially as heretofore reported. Other witnesses were examined.

THE SECRET TESTIMONY.

The testimony taken before the doors were opened to the reporters for the press, includes that of a man who was for several years in the military service of the so-called Confederate States, employed in the Topographical Department, on the staff of General Edward Johnston. He was in Virginia in the summer of 1863, twenty miles from Staunton. He became acquainted with three citizens of Maryland, one of whom was Booth, and another named Shepherd. He was asked by Booth and his companions what he thought of the progress of the Confederacy, and he told them that after such a chase as the rebels had then got from Gettysburg, he believed it looked rather gloomy. Booth told him that was nonsense, and added that, if we only act our part right the Confederacy will gain its independence, and old Abe Lincoln must go up the spout. The witness understood by the expression (must go up the spout) that he must be killed. Booth said that, as soon as the Confederacy was nearly whipped, that was the final resource to gain the independence of the Confederacy. The companions of Booth assented to his sentiments. The witness was at the camp of the 2d Virginia Regiment, and there was a secret meeting of rebel officers on that occasion. He was not present at the meeting, but one of the officers that was stated the purport. He believed Booth was at that meeting. The purport was to send certain officers on detached service to Canada and the borders to deliver prisoners, to lay Northern cities in ashes, and finally to get after members of the Cabinet and see the President. He heard that more than a thousand times. The name of the officer who gave him the information was Lieut. Cockerell. Booth was associating with all the officers. He heard very often that the assassination of the President was an object finally to be accomplished. He had heard it freely spoken of in the streets of Richmond. This necessity was generally assented to in the service. A lady from New York testified to having met Booth and a man named Johnson, and overheard their conversation. She picked up two letters which they had dropped, and one was addressed "Dear Louis," saying "that the lot had fallen on him to be the Charlotte Corday of the nineteenth century. Abe Lincoln must die now; you can choose your own weapons—the cup, the knife, the bullet," etc. The letter is signed Charles Selby. Two other witnesses testified that they were in Canada and saw Booth in conversation with George Sanders, and believed they also saw Booth talking with Clay, Holcombe and Thompson.

ADDITIONAL PARTICULARS OF THE TESTIMONY ON THE 17th.

John Fletcher was sworn, testifying that on the 3d of April a man came to his stable with Adzerodt, and left two horses there in charge of Atzerodt to sell; never saw that man since; one horse was sold, and on April 12th Atzerodt took the other away, returning at 1 P. M., of the 14th with a dark bay mare, saying that he had sold the other horse, which was a one-eyed roan; at 10 P. M., of the 14th, Atzerodt came after the mare, and witness spoke to him about Harrold's staying out so late with another horse, which he had hired of witness ostensibly for a lady; Atzerodt said he (Harrold) would be back after a while, and then rode off slowly; witness followed him, and saw him enter the Kirkwood House; where he only remained about five

minutes, when he came out and rode off; during a conversation that night Atzerodt remarked that witness would soon hear of a ferment. After leaving Atzerodt, witness saw Harrold on the hired horse near Willard's, and ordered him to bring the horse home, as he had had it long enough, but Harrold clapped on the spurs, and rode off; witness followed him to the Navy Yard bridge, and there learned from the Sergeant of the Guard that he had just crossed; when witness got back to the city it was ten minutes after midnight, and he then heard of the assassination; hearing that a horse had been picked up, he went to Gen. Augur's headquarters, and recognized on his desk the saddle and bridle Atzerodt had on the one-eyed roan, which he said he had sold; witness afterward identified the roan; when Harrold hired his horse he said he wanted English steel stirrups; have not seen that horse since. John Green, keeper of the Pennsylvania House in Washington, testified that between 2 and 3 A. M., April 15th, Atzerodt, who often visited him, came to his house with a stranger and took a room; hesitated when told to register his name; the man with him he called Thompson; he would resemble Spangler if the latter had a mustache; Atzerodt once told witness he would soon have gold enough to keep him all his life; Atzerodt left his house early on the 16th.

Hezekiah Mutz swore that Atzerodt came to his house, twenty-two miles from Washington, on the 16th; during dinner he said that if the man who was to follow Gen. Grant had done his duty Grant would have been shot; Atzerodt passed under the name of Atwood. Sergt. G. W. Gammill detailed the circumstances attending Atzerodt's arrest; at that time Atzerodt gave in another fictitious name, and said that he came from Washington.

Thomas L. Gardner testified that the one-eyed horse mentioned in the testimony heretofore, was sold to J. Wilkes Booth by witness' uncle in the latter part of November last; when Booth purchased the horse he was in the company of Dr. Mudd. Lieut. John J. Poffey testified that he picked up the one-eyed horse after midnight on the day of the murder, standing near Camp Barry, nearly a mile from the Capitol. He testified further that when he first saw the horse it was saddled and bridled, and that the animal was a little lame, which was probably one of the results of having fallen. The court then adjourned.

PROCEEDINGS ON THURSDAY, MAY 18th.

On Thursday, the 18th instant, A. Reeve, telegraph operator, residing in Brooklyn, Long Island, identified a despatch handed him by Booth at the St. Nicholas Hotel, and sent to Lewis J. Weichmann on the 23d of March. It simply read: "Tell John to telegraph number and street at once." The witness then delivered the message to John Surratt, who, in response to Weichmann's question, "What it was about?" said, "Don't be so d—d inquisitive."

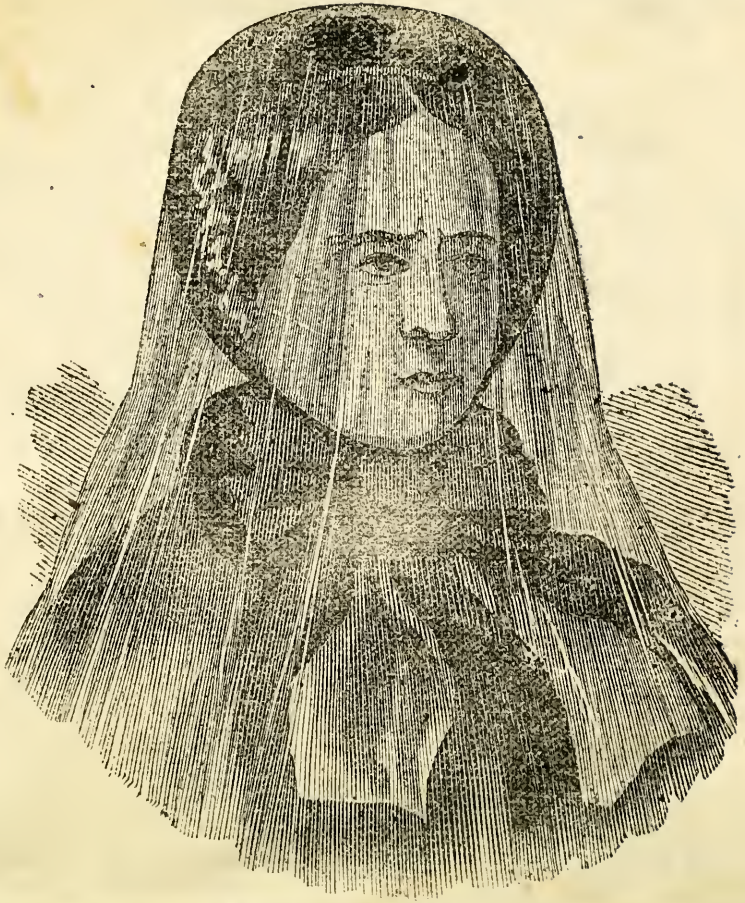
During Weichmann's re-examination on Thursday he testified that on the 4th of last March (Inauguration Day) John Surratt came into his mother's house in the afternoon, very much excited, rushing frantically around the room, with a revolver in his hand; when witness asked him why he was so much excited, Surratt said, "I will shoot any man who comes into this room; my hopes are gone and my prospects blighted; I want something to do; can you get me a clerkship?" (Weichmann was then a clerk in the War Department). The prisoner Payne came into the room; about fifteen minutes afterward Booth came into the room; he was so much excited that he walked very frantically around the room several times without noticing witness; he had a whip in his hand; the three then went to an upper room, and had a long consultation, after which they separated, Payne going to Baltimore, and Booth to New York. Previous to this confab, Mrs. Surratt had been weeping bitterly, and when asked what was the matter, said, "Go and get your dinner; John has gone away." [This evidence conveys the impression that Booth and young Surratt were to capture or murder the President on March 4, probably with Payne's assistance.]

Washington Briscoe testified that he saw Atzerodt on a street car at Sixth street, about midnight of the 14th of April, and that the prisoner was very anxious to sleep with witness in his store that night, asking him three times; when witness refused, Atzerodt said he was going back to the Kemmel House.

William Clendenen identified a knife as the one picked up near the corner of F and Ninth streets, on the morning after the assassination, by a colored woman. Detective McPhail testified that Atzerodt said to him he had thrown the knife away, and that a coat found at Atzerodt's room had in it a pistol which belonged to Harrold.

Rev. Mr. Ryder, of Chicago, testified: I visited Richmond in the month of April, remaining from the 13th to the 21st, and picked up in or near the State House, a letter signed W. J. Oldham February 11, 1865, to President Davis, in which he calls the attention of the President to the fact, that certain difficulties in a plan presented to destroy the enemy's vessels, cities, etc., to create a terror at the North, had been overcome. The preparation is alluded to as having been compounded by Professor McCulloch, to whom and one other person only the composition was known, and the writer states that by its means every vessel leaving foreign ports for the United States

PORTRAIT OF DR. MUDD.



PORTRAIT OF MRS. SURRATT.

any transport, gunboat, etc., may be destroyed, and this too by agents, and with but little fear of danger. The writer asks Jeff. to confer with General Harris on the subject. On this is indorsed, "The Secretary of State at his convenience will see General Harris and learn what plan he has for overcoming the difficulties heretofore experienced. Signed J. D., February 17, 1865." Messrs. John Potts and Nathan Rice, of the War Department, testified that to the best of their knowledge the indorsement was in the handwriting of Jefferson Davis.

Judge Olin was then sworn and gave an account of the discovery of the hole in one of the doors of the President's box, which had evidently been cut with a penknife. Witness discovered that the lock of the first door had been tampered with, so that the door could be easily opened, even when locked. Major Rathbun was recalled, and testified that he removed a bar from the door of the President's box, after he was shot, before he was able to admit any person. [The bar was afterward identified by a witness who found it. It was still stained with Major Rathbun's blood.] Witnesses were then examined, who testified to finding the letter signed "Sam" in Booth's trunk, which letter has been heretofore recorded. Several witnesses testified that the letter was in the handwriting of the prisoner, Arnold. Ethan J. Homer testified that he arrested Arnold at Fortress Monroe, and that he made the voluntary statement that about two or three weeks previous to his going to Fortress Monroe he was at a meeting held at the Lychan House; witness asked him who attended the meeting, and he gave him the names. [Here the witness took a paper and read therefrom.] J. W. Booth, M. O'Laughlin, G. W. Atzerodt, John Surratt, and a man with an alias of Mosby, and a small man, whose name witness could not recollect. Witness at first denied that he had ever been written to by Booth; afterward acknowledged he was acquainted with Booth, and said that Booth had letters of introduction to Drs. Mudd and Queen, of Maryland.

A Mr. Thomas testified that in a conversation with Dr. Mudd, some weeks before the assassination, the prisoner said that the President of the United States was an Abolitionist, and that the whole Cabinet were such, and that the South would not be subjugated under Abolition doctrine; he said the whole Cabinet would be killed, within six or seven weeks, and every Union man in Baltimore; he made a remark that witness was no better than they were; witness said he wrote to Colonel Holland, Provost-Marshal of the Fifth District, about it one week after, but never received an answer.

Two telegraph clerks were then placed on the stand, and read two telegrams sent to O'Loughlin by Booth. The court then adjourned.

PROCEEDINGS ON FRIDAY, MAY 19th.

Col. P. J. Taylor was the first witness sworn. He identified a letter which another witness swore to be written in the cipher of the Confederate States; the letter was found in Booth's trunk at the National Hotel. Charles Rosch then identified a rope eighty-one feet long which was taken from a carpet-bag belonging to the prisoner Spangler.

Wm. H. Welles, the colored boy who admitted Payne to Seward's house, made the following statement: "When Payne came in he rang the bell; I went to the door; this man came in; he had a little package in his hand, and said it was medicine from Dr. Verdi; he said he was sent by Dr. Verdi with particular directions how he was to take it, and he said he must go up; I told him he could not go up; then he repeated the words over a good while, talking to me, must go up, must see him, must see him; I told him he could not go up, that it was against my orders; that if he would give me the medicine I would tell how to take it if he would leave me the directions; that would not do; he started to go up; finding he would go up I slipped past him and went up the stairs before him; I asked him to excuse me; I thought perhaps he would say that I refused to let him come up: I thought may be he might be sent by Dr. Verdi, and that he would tell Mr. Seward I tried to stop him; he said 'All right;' I noticed that his step was very heavy; I asked him not to walk so heavy, he would disturb Mr. Seward; he met Mr. Fred. Seward on the steps outside the door and had some conversation with him in the hall; he said to Mr. Fred. Seward he wanted to see William Seward; Mr. Fred. told him he could not see him; he said that his father was asleep at the time—to give him the medicine and he would take it to his father; that would not do; he must see him! he must see him! he must see him! Mr. Fred. said: 'You cannot see him—you cannot see him;' he kept on telling him he must see him; Mr. Fred. said: 'I am the proprietor here—I am Mr. Seward's son; if you cannot leave it with me, you cannot leave it all;' he had a little more talk and still holding the little package in his hand; Mr. Fred. would not let him see him any way; he started toward the steps as if to go down; I started to go down before him; I had gone about three steps, and turned around, saying 'Do not walk so heavily;' by the time I had turned around he jumped back and struck Mr. Fred.; by the time I had turned clear around Mr. Fred. had fallen and thrown up his hands; then I ran down-stairs and hallooed 'murder;' I went to the front door and cried 'murder;' I then ran down to Gen. Auger's head quarters; at the corner I saw no guard and ran back; by that time three soldiers had come out of the building and followed me: I had got about

half way back to the house when I saw this man run out and get on his horse; he had on a light overcoat and no hat; he had on a hat when he came into the house; I had not seen the horse at all before; I hallooed to the soldiers, 'there he is getting on his horse;' he got on his horse and started off; I followed him as far as the corner of I and Fifteen-and-a-half streets; he turned to Vermont avenue and I lost sight of him there." Witness stated that Payne had on very heavy boots, black pants, light over-coat and brown hat; his face was very red at the time he came in; he had very black coarse hair. Witness identified the boots and pantaloons worn by Payne when captured as the ones worn on the night in question. Sergeant Robinson who was in attendance upon Secretary Seward, on the night of the 14th of April, testified the first he saw of Payne he heard a disturbance in the hall, when he opened the door Payne struck him, and when he came into the room the witness clenched him, Payne put his arm around his neck, struck him with a knife and cut him, then went to the bedside of Secretary Seward and struck him with the same weapon on the neck twice. He described what took place and the manner in which Payne seemed to be endeavoring to cut him in the neck. I endeavored to haul him off the bed, and he turned upon me; in the scuffle there was a man came in the room who clutched him; between the two of us we got him to the door, or by the door, when he clenched his hand around my neck, knocked me down, broke away from the other man, and rushed down-stairs. Witness recognized the hat left by Payne after the struggle.

Major Seward, son of Secretary Seward, was sworn and identified Payne as the man who was at his father's house on the night of the 14th of April; he had retired about 11 o'clock, and a short time after was aroused by screams of his sister; rushed up-stairs and seized the man, who struck witness with a decanter from the table, and made use of the words, "I am mad," "I am mad;" when near the door, as witness was pushing, he saw by the light in the hall, that he was tall, large, and had dark hair and no beard; got a pistol and rushed down to the front door; after witnesses' own wounds were dressed, he went into his father's room, and saw he had a large gash on his cheek, one on his throat, and one under his ear; witness was satisfied the prisoner at the bar was the same man.

The following account of Payne's identification is given by these three witnesses.

The manacles were taken off from Payne's wrists, under the direction of Major-Gen. Hartranft, and the coats and hat which he wore in his assault on the Sewards were put on him, that he might be recognized. The coats were of light gray material, and the hat a soft felt. The prisoner seemed to enjoy the freedom of his arms keenly. His fingers taper, and his hands are finely shaped, soft and white as a woman's. When identified he would wrinkle his brow and bite his nails nervously. The nurse and soldier, Robinson, who saved Mr. Seward's life, was present, and his recognition of the prisoner was instant and complete, "Nobody could forget that face, he said, though he looks less fierce and more natural. The negro boy who attended the door on that night also identified the prisoner with a degree of terror which was quite amusing. "Yes, that's the man, that's him, I know him." At which Payne smiled. "That's him;" added the witness, "don't you see he knows me." At which Payne laughed, and the court adjourned.

Major Smith made the following statement: "About midnight Payne came to Mrs. Surrat's door. After questioning Payne in regard to his occupation and as to what business he had at the house that night, he said he was a laborer—that he came there to dig a gutter at the request of Mrs. Surratt; I stepped to the door of the parlor and said, 'Mrs. Surratt, will you step here a moment?' Mrs. Surratt came there, and said I, 'Do you know this man?' she said, raising her right hand, 'Before God, I do not know this man, and have never seen him;' I then placed Payne under arrest, considering him so suspicious a character that I would send him before Gen. Auger's headquarters for examination." A dirty, gray worsted knit shirt-sleeve was here produced and identified by the witness as the one which Payne wore on his head the night of the arrest. Surgeon-Gen. Barnes testified as to the general nature of the wounds received by Secretary Seward.

Thomas Price identified a coat with a bloody sleeve which had been picked up by him on the 16th, in a piece of woods about three miles from the city. A witness identified the articles taken from Payne's pocket when arrested; also the boots worn by prisoner at that time. Some very remarkable testimony was then taken. It appeared that an examination of Payne's boots revealed the fact that at some former time a name had been written on the inside of one of the legs; this name had afterward been smeared with another coating of ink. Three witnesses testified that by a chemical process they had removed the outer coating of the ink, and the consequence was the discovery of the following letters: "J. W. B — th!" Capt. Wermerskirtch identified a pair of bullet-moulds, found on the top of the wardrobe in Mrs. Surratt's room.

Lieut. John W. Dempsey testified that he found a portrait of J. Wilkes Booth concealed behind a colored miniature, styled "Spring, Summer and Autumn," which was hanging in the parlor of Mrs. Surratt's house. Weichmann was then recalled, and identified the coat and vest worn by Payne at Mrs. Surratt's

house about the middle of March. Col. Wells, who had charge of the prisoner Payne on April 17, recognized the coat, pants, vest and shirt worn by him at that time; found blood on the sleeves of the coat and shirt; identified the boots worn by prisoner.

Mrs. Blice and Mrs. Driscoll (both colored) testified to seeing Dr. Mudd on horseback, in company with a man on a bay horse, on the afternoon of April 15, riding toward a swamp near Bryantown; the man on the bay horse went into the swamp and stayed there, the Doctor returning without him. The court then adjourned.

TESTIMONY ON SATURDAY, MAY 20th.

The reading of the testimony of Friday, being very voluminous, was not completed until a quarter past two. An hour's recess having been taken for dinner, the Assistant Secretary of War, Mr. Dana, was sworn, and identified the rebel cipher arrangement which he took from the room in Richmond formerly occupied by Secretary Benjamin, on the 6th of April. The contrivance is a reel, to be turned so as to substitute one set of letters of the alphabet for others. Major Eckhert testified to finding dispatches in Booth's trunk written in the same cipher, Witness translated two of them as follows:

October 13, 1864.

We again urge the necessity of our gaining immediate advantages. Strain every nerve for victory. We now look upon the re-election of Lincoln in November as almost certain, and we need to whip his hirelings to prevent it. Besides, with Lincoln re-elected and his armies victorious we nead not hope even for recognition, much less the help mentioned in our last. *Holcombe will explain this.* Those figures of the Yankee are correct to a unit. *Your friend shall be immediately set to work as you direct.*

October 19, 1864.

Your letter of the 13th inst. is at hand. There is yet time enough to colonize many voters before November. A blow will shortly be stricken here. It is not quite time. General Longstreet is to attack Sheridan without delay, and then move North as far as practicable towards unprotected points. This will be made instead of the movement before mentioned. He will endeavor to assist the Republicans in collecting their ballots. Be watchful and assist him.

The original of the first despatch came from Canada and went to Richmond, and the second one came from Richmond and went to Canada.

General Hamilton of Texas, identified the document in reference to destroying Northern vessels, found in Richmond by the Rev. W. N. Ryder, as being in the handwriting of William S. Oldham, rebel Senator from Texas. Frank Bloice testified to seeing Dr. Mudd in Bryantown on April 15, thus corroborating the testimony of the negro woman taken yesterday. Robert Nelson (colored) testified that he found a knife, which looked like the one he found near Secretary Seward's house, in the middle of the street, early on the morning of Saturday, as he was going to market. Dr. Wilson was then sworn. He said he examined the knife referred to by the preceding witness, and recognized it as the one having been handed to him by the boy Nelson. [This is undoubtedly the knife thrown away by Payne.]

James B. Stewart testified that he was at the theatre on the night of the assassination, and saw the assassin leap from the box, and made an effort to stop him from running across the stage; he passed several persons in the passage-way, and one near the door; the latter did not move about as the others did. Witness here scanned the prisoner in the box, and said the fifth one from the window (Spangler), looked most like the man to whom he referred. Assistant Judge Advocate Burnett then handed to Mr. Stewart a plan of the theatre, by which he explained the route taken by Booth and himself, and on which he remarked the exact spot where he had seen the man alluded to in the latter part of his examination. The witness gave the following account of Booth's escape after reaching the door: "When I got out of the door I perceived a man mounting a horse; he was at that instant barely mounted; the moon was just beginning to rise, and I could see him better; the horse was moving in a circle as though prematurely spurred in mounting: I ran in the direction to which the horse was heading at about eight or ten feet from the head of the horse, and the rider brought him around to the right again; the horse's feet were rattling violently on the stones; I crossed in the same direction, and was soon on the right hand side of the horse, but he was gaining on me; when about two-thirds of the way out of the alley; he brought the horse forward and swept to the left of F street; I commanded him to stop; it all occupied but two seconds." Witness recognized the man as J. Wilkes Booth. Witness expressed himself as satisfied beyond all manner of doubt that the man near the door could have interrupted the exit of Booth had he been so disposed.

Mr. Campbell who resides at Montreal, certified that he is the First Teller of the Ontario Bank, and identified the bank account of Jacob Thompson: Thompson's account was opened in May, 1864—the whole amount of credits being $649,000; witness stated sums drawn by Thompson, at various times; he knew Thompson was reported to be the financial agent of the Confederate Government, but he was known only as Jacob Thompson at the bank; he knew Thompson had lar

transactions with other banks in the Province, and referred to a check drawn by Thompson to the order of C. C. Clay for $50,000 on the Bank of Ontario; witness remembered J. Wilkes Booth, who had a small account at the bank for a bill of exchange for £61 on Liverpool, which was drawn to his order. He stated that he was going to run the blockade, and asked whether, in case of capture, the Federals could make use of the exchange.

At this point of the trial the court was closed, it being understood that an important witness, whose testimony the Government has reason for withdrawing, was to be examined. Court adjourned.

ABSTRACT OF MONDAY'S EVIDENCE.

The court examined one witness in secret session, when the doors of the court were opened. The evidence taken on Saturday was read. An unusually large number of spectators, including a number of ladies, were present. Judging from their actions and their continuous talking, they were most interested in the appearance of the prisoners. Miss Fitzpatrick, who resided at Mrs. Surratt's in the month of March, testified to having seen John H. Surratt, Booth, Atzerodt and Payne there together, the last named going by the name of Wood. She accompanied Surratt and Payne to Ford's Theatre. Booth came into the box. The court here took a recess. After the recess, Captain Dougherty, who had command of the cavalry which went in pursuit of Booth, testified as to the part he took in the capture of Harrold. The latter had no arms on his person, but only a small map. Harrold asked "who had been shot?" The captain replied "Booth." Harrold said it was not Booth, but Boyd, and at first denied knowing Booth. On his cross-examination the witness said that Booth remarked that Harrold was "innocent," or words to that effect.

William E. Cleaver, who keeps a livery stable in this city, testified to Booth's keeping a horse at his establishment, but which he sold to Sam. Arnold on the 30th of January. Arnold took the horse away on the 8th of February. [This is the one-eyed horse again, which has now been seen in the possession of Booth, Dr. Mudd, Atzerodt, Surratt, O'Laughlin, and Arnold, and is the same horse found hitched to a fence three-quarters of a mile from the Capitol, on the night of the murder. It supposed that the horse was ridden by Payne on the night of the murder.]

Marshal McPhail testified that O'Laughlin was in the Rebel service for one year, and came into our lines at Martinsburg. He took the oath of allegiance in Baltimore, in June, 1863. O'Laughlin resides in Baltimore. He was in the battles of Antietam and South Mountain. Dr. Verdi, physician to Secretary Seward, who was called in after the attempted assassination, testified as to the condition of the persons there wounded; he said on that night he did not think the wounds of the Secretary to be mortal; the Secretary at the time was improving from the former accident. The Secretary expressed his satisfaction when he told him his wounds were not mortal. John Bohren, *alias* "Peanuts," testified that Spangler fixed up the stable in the rear of the theatre for Booth's horse and buggy; Spangler sold the buggy for Booth the Wednesday before the President was assassinated. John Maddox testified that he rented the stable for Booth; saw Spangler in his place on the stage three or four minutes previous to the shooting of the President; did not hear Booth call Spangler on that night. [This disagrees with the statement of a previous witness.]

Lieutenant Bartlett, who was a prisoner in the Libby from September, 1863, to December, 1864, testified he observed the prison was mined with the intention to blow it up; a large torpedo was buried under the center of the prison; different persons said it had been mined in case Colonel Dahlgren's raid should succeed in reaching Richmond. Colonel Treat testified to having brought to Washington a number of boxes said to contain the archives of the so-called Confederate States. Mr. F. A. Hall testified that he opened the boxes, and here identified a paper found in one of them. The paper was a letter addressed to His Excellency President Davis, dated at Montgomery White Sulphur Springs, Virginia, in which the writer says that he now offers his services to the Confederacy, and he is "willing to proceed to rid the country of its deadliest enemies, by striking at the very heart's blood of those who seek to enchain her in slavery," and all he asked was for the necessary papers to give him travelling facilities within the Confederate States. He says he is well acquainted in the Northern States, and that he is a Lieutenant in Duke's command. He also says he was in John Morgan's raid, and finding a good opportunity to escape, he run the gauntlet of being captured by the Union troops, and made his way to Canada, where he was assisted by Colonel J. P. S. Holcombe, and managed to run the blockade. He says: "If I do any thing I shall expect your full confidence;" and expresses his wish for an answer soon, and for a short interview. The communication is signed "Lt. W. Alston," and it bears the indorsement, "Brief. Lieut. W. Alston offers his services to his country to rid it of its deadliest enemies. Respectfully referred, by order of the President, to the Secretary of War." Signed, "Benton W. Harrison, Private Secretary. For attention. By order J A. Campbell, A. S. W."

The court adjourned.

THE SECRET TESTIMONY.

During the first days of the trial, Samuel Knapp Chester, an actor, testified that on the 24th or 25th of November last, while walking up Fourth street, New York, with Booth, he "told me that he was in a large conspiracy to capture the head of the Government, including the President, and take them to Richmond; I asked him if that was what he wished me to go in; he said it was; I told him I could not do it, that it was an impossibility; only to think of my family; he said he had two or three thousand dollars that he could leave them; I still said I could not do it; he urged it, and talked with me for, I suppose, twenty minutes or half an hour, and I still refused; he then told me that at least I would not betray him, and said I dare not; he said he could implicate me in the affair, anyhow; he said that the party were sworn together, and that if I attempted to betray them, I would be hunted down through life, and talked some more about the affair; I cannot remember it now; but still urging me, saying I had better go in; I told him no, and bade him good-night, and I went home."

Witness testified that Booth told him the part he wanted him to act in the tragedy was to open the door of Ford's theatre at a given signal; he said it was an easy thing to do, and the thing was sure to succeed, and that there was fifty to a hundred persons in the conspiracy, and there were persons on the other side ready to coöperate with them; he said there was plenty of money in the affair, and witness never would want if he would join them; on Friday, April 8, witness met Booth in Washington, and he said he had an excellent opportunity to kill the President on Inauguration day.

The court met at 10½ o'clock this morning.

Mr. Aiken said that, as the Government found it inconvenient to close its testimony at this time to show that a conspiracy did exist, but not with special reference to the prisoners at the bar, he would to-morrow be ready to go on with the defence, as he was not disposed to waste the valuable time of the court.

Col. Burnett, the Judge Advocate, remarked that four or five witnesses were yet to be examined with reference to the accused. Some of them were in Baltimore, and others in this city, but the latter had not been able to cross the line of the military review to reach this place.

The testimony taken yesterday was then read.

Mr. Ewing made a request, which was granted, to have his former statement amended, so it might appear that he had asked that all the testimony against the accused be introduced before the commencement of the examination of the witnesses for the defence; the counsel for the defence, however, having no objection, that testimony as to a general conspiracy might be hereafter introduced by the Government.

Judge Advocate General Holt briefly stated the difficulty of procuring the attendance of witnesses at this time, and, after a brief consultation, the court adjourned till Thursday

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EVIDENCE ON THURSDAY, MAY 25th

On the 25th ult., the conspiracy trial was resumed at Washington. A witness was called who testified that on the 17th of April he searched the baggage of Arnold, a short distance from Fortress Monroe, and found papers, clothing and a navy revolver. The court here produced the pistol, which the witness identified. It was loaded then as it was at this time. The court ordered the pistol to be discharged. Two other witnesses testified as to the shocking bad treatment of the sick and wounded Union prisoners, both in the hospitals and at Libby prison. They were told by Major Turner, the keeper of Libby prison, that the treatment was good enough for Yankees. Out of forty sick men brought in, eight or twelve died the first night. The weakness and emaciation of the prisoners was owing to the bad character and insufficiency of the food. They were told that the bad treatment was in the way of retaliation, on the ground that the rebel prisoners had been treated worse than Union prisoners. Another witness testified that the Libby prison was mined, and that Major Turner informed him that he had seen General Winder on the subject. The fuse was ready for the mine at the time of Kilpatrick's raid. Another witness, named McGee, was called, when the Judge-Advocate General asked him whether Arnold was ever in the rebel service. Mr. Ewing objected to the question. The Judge-Advocate General briefly argued that the interrogatory was pertinent, as history had proved the connection between treason and the assassination of the President. The assassination was manifestly a political offence, and was a sequence of disloyalty. Mr. Ewing responded, when the court decided that the question should be answered. The witness then replied that he saw Arnold in rebel uniform, in the city of Richmond, in the beginning of the war. Three colored persons testified as to their acquaintance with Dr. Mudd; said his conduct showed him to be a rebel sympathizer, and stated that he had assisted rebel soldiers. A young man from Georgetown testified that the morning after the assassination he loaned Atzerodt $10, the latter leaving with him a revolver as security. The pistol was produced, which the witness identified. It has been loaded ever since. Lieutenant Latouch, who was detailed for service in Libby prison in March, 1864, testified: He heard Major Turner say if the raiders got into the city he would blow up the building with the prisoners in it. Lavi-

nia Washington, sworn, said she was Dr. Mudd's slave, and left his home nearly two years ago; she heard Mudd say, the summer before last, Lincoln would not keep his seat long; two or three men were present at the time, dressed partly in gray and partly in black, and they slept in the pines; Dr. Mudd sometimes carried victuals to them; Mary Miley, also a slave of Dr. Mudd, was sworn, and testified: That she left his house the month before last Christmas; she saw two or three men, sometimes in the house and sometimes out in the woods, where they had their bed, last summer; one of these men was John Surratt. Witness heard Garner say to Mudd, "That old Abe Lincoln, damned old son of a b——, ought to have been dead long ago," when Mudd replied he was much of the same mind. This was in tobacco-planting time last year. Several colored witnesses testified as to Mudd and others conversing in praise of the rebels. Ben Garner said to Mudd that Stonewall was going to cross at Point of Rocks, take Washington, and burn old Lincoln in his house; Mudd said he would not be surprised.

The prosecution then closed, reserving the right to introduce further testimony. The testimony given for the prosecution may be arranged under three heads: First, the identification of the accused; second, their intimate association; third, their complication with the rebel Government and the rebel agents in Canada. A review of the evidence deeply implicates Mrs. Surratt, Dr. Mudd, Atzerodt and Spangler; of the guilt of Payne and Harrold there is perfect proof; and the evidence but slightly implicates O'Laughlin and Arnold.

TESTIMONY FOR THE DEFENCE.

The defence then opened. The Rev. Father Wigett testified: he had been acquainted with Mrs. Surratt eight or nine years, and always heard her spoken well of, and had never heard any thing that would detract from her Christian character. The Rev. Fathers Boyle and Stonestreet testified to the same effect, and had never heard her utter a disloyal sentiment. Miss Howard Fitzpatrick testified that she had boarded with Mrs. Surratt since Oct. 6; saw Payne and Atzerodt there at different times; witness testified that Mrs. Surratt could not read or see at night on account of her eyesight. [It will be remembered that Mrs. S. solemnly affirmed that she had never before seen Payne on the night of his arrest.]

Mrs. John Hallohan, who boarded with Mrs. Surratt, testified that she saw Payne there when he called himself Wood; Mrs. Surratt said he was a Baptist minister; witness saw Atzerodt at the house once or twice; Mrs. Surratt said she would not board the latter. Witnesses from Baltimore were produced, who gave circumstantial accounts of where O'Laughlin was in that city at various times on the 13th and 14th of April, the object being to prove an alibi.

EVIDENCE ON FRIDAY, MAY 26th.

On May 26, the court-room was again crowded with spectators of both sexes, the largest part of them being unable to find seats. The main attraction is the appearance of the prisoners. After the immense mass of evidence taken on May 25 had been read, the Rev. Father Lanahan, living near Bryantown, Maryland, and the Rev. Father Young, pastor of a Roman Catholic church, were severally sworn, and testified that Mrs. Surratt had always had the reputation of being a woman of Christian character. These witnesses had never heard her express loyal or disloyal sentiments.

TESTIMONY FOR THE PROSECUTION RESUMED.

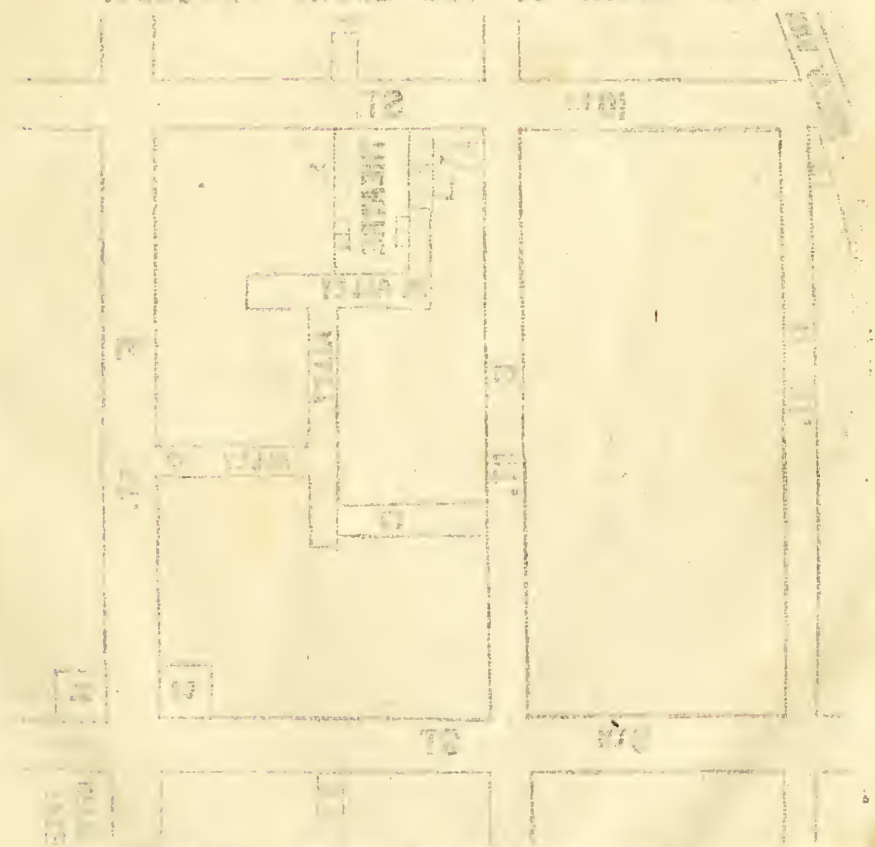
Lewis W. Chamberlain testified he was a clerk in the War Department of the Confederate States, and became acquainted with the handwriting of John A. Campbell, Assistant Secretary of War, and Harrison, Jeff. Davis' private secretary; he identified the indorsements on the letter of Lieut. Alston as theirs. [This letter was read on a former day; the writer was seeking employment to strike at the heart of the nation.]

Henry Finegan testified that, on February 14 or 15 last, he was in Montreal, Canada, and overheard a conversation at St. Lawrence Hall between Geo. W. Sanders and Wm. Cleary; heard Cleary say: "I suppose they are getting ready for the inauguration of Lincoln next week." Saunders said: "Yes; but if the boys only have luck, Lincoln will not trouble them much longer." Cleary said: "Is every thing ready?" Sanders replied: "Oh, yes; Booth is bossing the job." On cross-examination, witness testified that he was within ten feet of the parties at the time, and would positively swear to the words used; he had mentioned the circumstance to several parties since, but thought at the time that it was a piece of braggadocio. Witness had been a commissioned officer in a Massachusetts regiment.

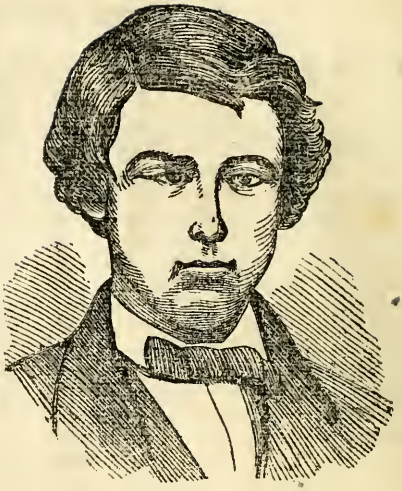
Charles Sweeney testified he was in the war and a captured prisoner in Richmond, and afterward in Andersonville; he spoke of the insufficiency and bad quality of what he called the "grub;" the rebels shot down some of the men like brutes, while others died for want of food; Gen. Cobb said all in the stockade would, before long, be in the graveyard, and if they caught Old Abe they would hang him. Several other witnesses were produced by the Government to show the bad treatment of our soldiers in the prisons of Richmond and Andersonville.

TESTIMONY FOR THE DEFENCE.

The defence called additional witnesses to discredit the testimony of other witnesses

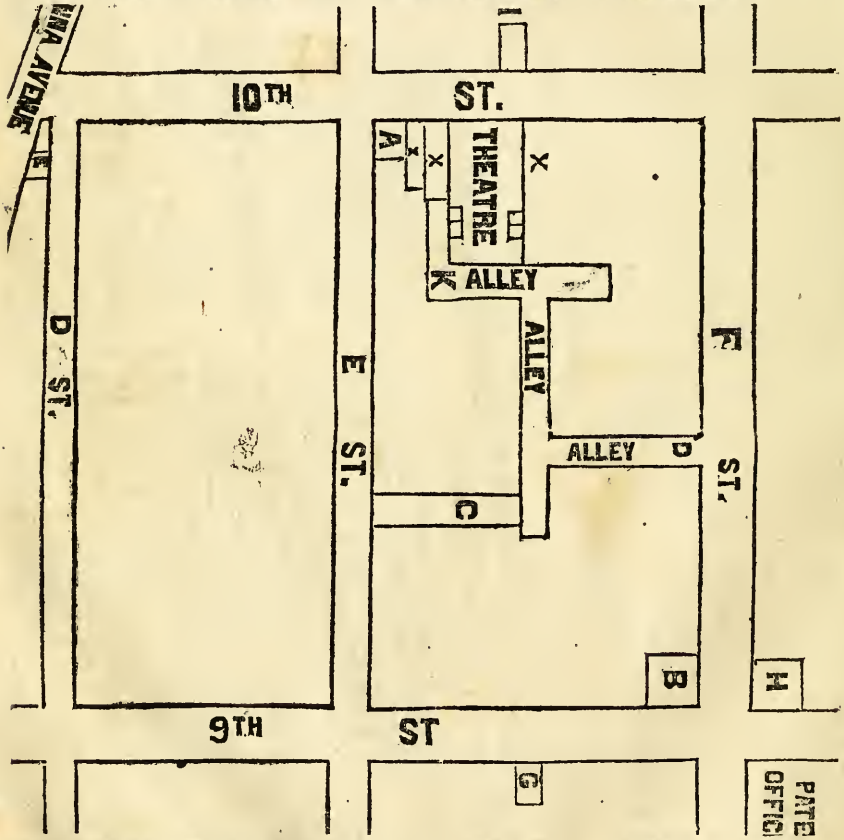


LEWIS C. PAYNE.



DAVID C. HAROLD.

THE SCENE OF THE GREAT TRAGEDY.



A—Public School. B—Herndon House, (Hotel).
C—The only vacant lot communicating with alley.
D—The only alley outlet to F street.
E—Bank (formerly Savings Bank).
X—Restaurants. G—Newspaper Office.
H—Model House.
I—House taken to after the act.
K—The alley by which the murderer escaped.

relative to Mudd's visit to Washington, endeavoring to show that he could not have been in Washington at the time Weichmann testified to seeing him in consultation there with Booth and Surratt. Court adjourned.

PROCEEDINGS ON SATURDAY, MAY 27.

TESTIMONY FOR THE PROSECUTION.

The prosecution called George F. Edmonds of Burlington, Vt., who testified that he is attorney and had charge, for the United States, of the St. Albans Raid Case, Jacob Thompson, Clement C. Clay and Sanders were in attendance on the court, and assumed to be the defenders of these raiders for the Confederate States. The witness was shown a printed paper, which he believed was substantially if not an exact copy of the original which he had seen. This letter was dated Richmond, June 10, 1864, signed by James A. Seddon, Rebel Secretary of War, and addressed to Lieut. Young. It informed the latter that he was appointed for *special service*, and directed him to report to Thompson and Clay for his instructions; and also to select twenty Confederate soldiers for the execution of such enterprises as might be entrusted to him. The original paper was produced by the Rebels on the trial of the St. Alban raiders. Col. Nevins, of Genesee, N. Y., testified to having seen Atzerodt at the Kirkwood House on the 12th of April. This was between four and five in the afternoon. Atzerodt inquired of witness which was the Vice-President s room; witness answered that he did not know the number of the room, but that it was on the right hand side, next the parlor; also volunteered the information that the Vice-President was eating his dinner, and pointed him out in the dining-room, in which he was sitting at the far end, with a yellow-looking man standing behind him. Atzerodt looked into the dining-room, and witness left him without further observation. Witness identified Atzerodt among the prisoners.

TESTIMONY FOR THE DEFENCE.

The defence called several witnesses to impeach the veracity of some of those who have testified against Dr. Mudd, and to establish the fact that the Doctor had given no aid and comfort to the rebels. He had, however, provided food and shelter for some of the citizens in 1861, who had taken alarm lest they should be arrested at the time that Gen. Sickles came into the country. A determined effort was made to impeach the testimony of the witness Thomas, several evidently Secesh witnesses expressing a doubt as to his character for truth, but none as to his loyalty. [Thomas, on the stand for the prosecution, testified to hearing Mudd predict, over a year ago, the assassination of President Lincoln and Cabinet.] A. S. Howell, a rebel blockade-runner, testified that Mrs. Surratt's eye-sight was bad in the dark; witness taught Weichmann the cipher mentioned in Weichmann's testimony; witness frequently went to Richmond; Weichmann once asked him if he thought he could get him a position as clerk in the Rebel War Department there. "We were talking over matters, and he said that he intended to go South, and wanted to go with me, and I said that if that were the case he had better go then, as I did not know when I should cross the river again; he said he was not ready to go just then; said his sympathies were with the South, and that the South, he thought, would ultimately succeed." Weichmann once told the number of prisoners the United States Government had above what the Confederate Government had, and said he had the books in his office to show it. The witness experienced a long cross-examination in reference to his blockade-running experience and his connection with Mrs. Surratt; had heard Weichmann say that he had done all he could for the South. The court then adjourned.

PROCEEDINGS ON MONDAY, MAY 29th.

On Monday the counsel for Mrs. Surratt asked to have Henry Von Steinecker recalled; they wished to show that Von Steinecker has been attached to Blenker's staff, but, subsequently, while under sentence of death for desertion, he escaped to the rebel service, and was employed as a draughtsman for General Jeb Stuart. They wanted to show there was no such secret meeting as Von Steinecker had described in the camp of the Second Virginia Regiment at which Booth was alleged to be present, and the assassination of President Lincoln discussed. General Wallace, a member of the court, said the application just made, which was in writing, contained a bitter aspersion on the witness in his absence, and was inflammatory in its character. It was discreditable to the parties concerned, and too offensive to the court to be placed on record. Mr. Campbell disclaimed any intention on the part of counsel to reflect upon the court. The only object was to impeach the testimony of a witness. The court voted not to put the paper on record, but was perfectly willing, as was expressed the other day, that the counsel for the accused should call witnesses to impeach Von Steinecker's testimony. Mr. Aiken said they had General Edward Johnson, late of the rebel service, as members of his staff, to prove that no such secret meeting as Von Steinecker represented took place in the camp of the Second Virginia Regiment, at which Booth was said to be present, having for its object the assassination of President Lincoln. Witnesses were examined by the defence to impeach those who had testified against Dr. Mudd. They were examined with an intention of invalidating the evidence of Daniel Thomas

Mudd's slaves, Weichmann, and the persons concerned in Mudd's arrest. Nothing of interest transpired, with the exception that one witness swore positively, that he was sick during the month of February, and that Mudd attended him every day, and consequently could not have been in Washington during that month, as testified by Weichmann.

TESTIMONY FOR THE PROSECUTION.

The prosecution called Mr. Hyams, who testified to meeting Dr. Blackburn at Toronto in December, 1862, and knew that he was in the service of the rebellion. That Blackburn took witness to a private room, and asked him if he was willing to go on an expedition. He told him he could make a hundred thousand dollars and receive more glory than Lee. Witness consented, and received a letter from Blackburn, dated May 10 last, at Havana, stating he would arrive at Halifax, and witness made his way there and perfected arrangements for the distribution of infected clothing, and bringing the trunks to New York, Philadelphia, etc. Blackburn stated that his object was to destroy the Federal army; that the clothing had been infected with yellow fever, and that other parties were engaged with him in infecting goods amounting to one million dollars worth, with that disease and the small-pox. Witness understood that the clothing in a valise which was sent to President Lincoln was infected with both diseases. When witness returned to Hamilton he met Clay and Holcombe, who congratulated him on his success, and he telegraphed to Dr. Blackburn, who came down the next night, and when witness told him what he had done, he said it was all right, as "*Big No.* 2" had gone to Washington, and he was sure it would kill at sixty yards. Blackburn said Thompson would pay him, and he went to Thompson, who stated he would be paid when they heard the goods had been delivered according to instructions. Witness showed them a letter from Wall & Co., when Thompson gave witness $50 on account. During his operations for Blackburn, Hyams passed under the name of J. W. Harris. Wm. L. Wall, auctioneer, of Washington, testified that he received sundry trunks of clothing from a J. W. Harris, last summer, and advanced him $100 thereon. A. Brumier, clerk of Mr. Wall, testified that he sold the same chests of clothing in the City of Washington, and remitted the balance to J. W. Harris, at Toronto, C. W.

TESTIMONY FOR THE DEFENCE.

The defence then called up several witnesses to impeach the evidence of the witnesses of the prosecution against Dr. Mudd, but their testimony elicited nothing of special interest. The court then adjourned.

PROCEEDINGS OF TUESDAY, MAY 30th.

Lewis F. Bates was examined for the prosecution, and testified substantially as follows: Have resided at Charlotte, N. C., for the last four years; Jefferson Davis stopped at my house on the 19th of April, and made an address from the steps; Davis received and read to the crowd a telegram from General Breckinridge, dated Greensborough, April 19, as follows:

"President Lincoln was assassinated in the theatre on the night of the 14th instant. Secretary Seward's house was entered on the same night, and he was repeatedly stabbed, and is probably mortally wounded."

The witness said that after reading this despatch to the crowd, Davis said: "*If it were to be done it were better it were well done.*" The day after Breckinridge and Davis conversed in the house of the witness on the subject of the assassination, Breckinridge remarked to Davis that he regretted it very much; it was unfortunate for the people of the South at the time; the regret seemed to be because of sympathy for the South, and not because of the criminality of the act. Davis replied: "Well, General, I don't know. If it were to be done at all, it were better it were well done; and if the same were done to Andy Johnson, the beast, and Secretary Stanton, the job would be complete."

J. C. Courtney, a telegraph operator, testified that the telegram in question passed over the wires.

Jacob Ritterpaugh testified that he was employed in Ford's Theatre when the President was shot; he saw the assassin run across the stage, and followed him; he found the door hard to open; when witness returned, Spangler struck him, saying: "For God's sake don't say which way he (Booth) went!" Witness was called for Harrold, and said he had always been regarded as a light and trifling boy, and easily influenced; he was temperate and regular in his habits.

The rebel General Edward Johnson was called by the defence. General House said Johnson was educated at the United States Military Academy; it was a well-known condition precedent to an officer's receiving his commission that he must take the oath of allegiance; that it was notorious that Johnson had borne arms against this Government, and came here with hands red with the blood of his loyal countrymen. To offer him as a witness was an insult to the court, and he moved he be ejected.

General Ekin was glad the motion had been made. The introduction of such a man as the witness was the height of impertinence.

Mr. Aiken, of the counsel for the defence, said the Confederate officer Jett had already appeared as a witness for the Government.

therefore no disrespect was intended by introducing this witness.

Judge Holt and others spoke, when General Howe withdrew his objection.

General Johnson then testified that he is acquainted with a man representing himself as Von Steinecker, who was a private in the Second Virginia Infantry; he never heard of a secret meeting such as that to which Von Steinecker testified, having in view the assassination of the President; he never heard such a thing spoken of as desired; he never saw Booth in his camp, or heard of him till the assassination.

PROCEEDINGS ON MONDAY, MAY 31st.

Hartman Richter, a cousin of Atzerodt, testified that the prisoner came to his house in Montgomery county, Md., on the Sunday after the assassination of the President, and remained there until Thursday morning. He did not attempt to hide himself, and was willing to go with the arresting officers. Mr. Doster, as counsel for Atzerodt, stated that he intended to set up the plea of insanity, and for this purpose had summoned relatives and friends of Atzerodt living thousands of miles away, who have not yet arrived.

William S. Arnold testified as to his brother's whereabouts in Baltimore city and county from the 21st of March to the 1st of April, when the prisoner went to Fortress Monroe, giving to the witness his pistol and knife. Frank Arnold, also a brother to the prisoner, testified that the latter went to Fortress Monroe to enter upon employment. John T. Ford, manager of the theatre, was called. He was shown the rope found in Spangler's carpet bag; said it might have been used in crabbing or for other purposes; the witness was in Richmond when the assassination occurred. H. Clay Ford testified that he was treasurer of the theatre; he knew the President intended coming to the theatre at 11½ o'clock in the morning; Booth was at the theatre at noon, but he did not tell Booth the seats had been engaged; had helped drape the President's box on the 14th of April, and did not notice that the hole was bored through the door, the screws to the locks drawn, or that there was any mortice in the wall behind the box. James R. Ford testified that the President's messenger came to the theatre about 10½ A. M., April 14, and engaged the box; the President was not invited to the theatre. John T. Ford stated that Spangler seemed to entertain a great admiration for Booth, who was a particularly fascinating man, and who seemed to exercise a control over the minds and actions of his inferiors; he excelled in gymnastic exercises, and his leap from the President's box to the stage was not one which required any rehearsal; he had often introduced a similar leap into the witch scene in "Macbeth;" since the latter part of September last, during the entire theatrical season, Booth frequently visited the theatre, and had his letters directed there. Mr. Beat, manager of Grover's Theatre, testified that he frequently met Booth before the murder, and that on the 13th of April, Booth came into his office, seated himself in a chair, and entered into a conversation upon the subject of the illumination; there was to be a general illumination of the city on Thursday; "he asked me if I intended to illuminate; I said I did, to a certain extent, but that my great illumination would be on the next night, the anniversary of the fall of Sumter; he asked me if I was going to invite the President; I think my reply was—yes, and I must send that invitation; I had it in my mind for several days to invite the Presidential party to attend on the night of the 14th;" witness afterward sent a note of invitation to Mrs. Lincoln. H. N. James testified that he was standing on the stage of Ford's Theatre, ready to draw a flat, when the fatal shot was fired, and that Spangler was directly opposite him; did not notice what became of him afterward; Spangler had been in his place throughout the whole play, and applauded with his hands and feet when the President entered the theatre. J. Boney testified that he was what was called "the responsible utility" at Ford's Theatre; on the night of the 14th April, J. Wilkes Booth came up to the alley door, he called for me at first; I do not know whether he came on a horse or not, but he told me to ask Spangler to come up and hold his horse; I did not see the horse; I was on the opposite side, and I said Booth wants you to hold his horse; he went; Booth came inside, and, said he, can I go across the stage? said I, no, the dairy scene is on; Spangler then called me, and told me to call Peanut John to hold the horse, saying that Gifford was away, and the responsibility of the scene was all on him; Spangler was in his place and attended to his duties throughout the whole evening; witness saw him on the stage for five or six minutes after the shot was fired, but took no particular notice of him.

Drs. Davis and McKimm testified that they had known Harrold since early boyhood; Dr. McKimm would not allow him to put up prescriptions for fear he would play a joke on somebody; he is a light, unreliable, trivial boy, and is in mind about eleven years of age. Dr. Davis stated that he did not think that nature had endowed Harrold with the average quantity of brains. The court then adjourned until June 2.

PROCEEDINGS ON FRIDAY, JUNE 2d.

Thomas J. Reybold, employed at Ford's Theatre, testified that about two weeks before the assassination, Booth occupied box No. 7, adjoining that in which the President was

subsequently shot. On the 7th of March the witness, not being able to find the key, broke open box No. 7, in order to admit a gentleman with his company; witness testified that this was probably the cause of the lock and screws being loose on the door of the box, as he had forgotten to mention the circumstance to the manager. Two witnesses, employed at the theatre, had exhibited to them the rope found in Spangler's carpet-bag. They said it resembled similar rope used in the theatre, but could not say positively it was the same.

Jacob Ritterspaugh was recalled and reiterated his testimony that Spangler slapped him in the face after the fatal shot was fired, saying, "Shut up; don't say which way he went." Witness testified that he told this to Mr. Lyon on the day after, and to a Mr. Carland on the night of the assassination. Mr. Louis J. Carland was then called, and testified that Mr. Ritterspaugh told him that when Spangler slapped him in the mouth it was in answer to an exclamation of Ritterspaugh, who recognized Booth; Spangler said, "You don't know who it was; it might have been Mr. Booth, and it might have been somebody else; witness was not certain about Ritterspaugh telling him any thing further. James Lyon testified that Ritterspaugh told him on the day after the murder that Spangler's expression was, "Shut up; you know nothing about it; what do you know about it, keep quiet." G. W. Bunker testified that on April 15, he found among Booth's baggage at the National Hotel a large sized gimblet with an iron handle.

Matthew J. Pope testified that he kept a livery stable near the Washington Navy Yard, and that on April 12 a man brought the one-eyed horse to his place, and endeavored to sell him; witness failed to recognize Atzerodt as the man, though he thought the features were similar; the man went away leaving an umbrella. [The reader will remember that another stabler testified that Atzerodt took the one-eyed horse away from his stable on the morning of the 11th, and returned on the 14th with a bay mare, saying he had sold the one-eyed animal.]

Miss Margaret Branson testified that she first met Payne at Gettysburg, immediately after the battle; Payne was in witness's ward, where he was very kind to the sick and wounded. Mr. Doster claimed the foundation for proposing Payne's insanity had already been laid by the prosecution; and the crime, in its inception, the manner in which it was carried out, and the action of Payne, both before and since his arrest, went to show insanity. Mr. Doster detailed the circumstances attending the attempt to kill Secretary Seward in support of his plea. Dr. Nichols, Superintendent of the Government Insane Asylum, was called for the accused. If a man attempts to murder a sick man in bed, whom he had not before seen, and assaults four others in the same house, witness would suspect him to be insane; and also if he remained talking with a servant for five minutes; but if he cried out after committing the deed "I'm mad, I'm mad," witness would suppose that this was feigning madness; madmen seldom say they are mad; if he would abandon his horse, wander in the woods, and make his way to a house which he would suspect to be guarded, witness would suppose he was indifferent to the consequences. The examination and cross examination was very long, but rather interesting. The witness enumerated the different degrees of insanity, and what were, in his opinion, the causes. Margaret Kaighan testified that Payne once threw a negro girl to the ground, stamped on her body, and tried to kill her because she said she would not clean up his rooms.

Mr. Dawson, clerk of the National Hotel, produced the following letter, which was found among the initial letters at the hotel not long after the murder:

"SOUTH BRANCH BRIDGE, April 6, 1865.

"FRIEND WILKES: I received yours of March 12, and reply as soon as practicable. I saw French, Brady and others about the *oil* speculation. The subscription to the stock amounts to eight thousand dollars, and I add one thousand myself, which is about all I can stand now. When you *sink* your well go *deep* enough. Don't fail; every thing depends on you and your *Helpers*. If you can't get through on your *trip* after you *strike ile*, *strike through Thornton Gap and cross by Capon Romney, and down the branch, and I can keep you safe from all hardship for a year.* I am clear of all surveillance now that infernal Purdy is beat. I hired that girl to charge him with an outrage, and reported him to old Kelly, which sent him in the shade; but she suspects too damned much. Now, had he better be *silenced for good.* I send this up by Tom, and if he don't get drunk you will get it the 9th; *at all events it can't be understood if lost.* I can't half write. I have been drunk for two days. Don't write so much high-falutin next time. No more, only Jake will be at Freen's with the funds. Burn this.

Truly yours, LEON.

"Sue Guthrie sends much love.

"Mailed at Cumberland, Md. May 8."

This letter, according to the post-mark, was mailed at Cumberland, Md., May 8, although it is dated May 6. After some rebutting testimony in favor of Dr. Mudd the court adjourned.

TESTIMONY ON SATURDAY, JUNE 3rd.

On Saturday the first witness examined was ex-Governor Farwell of Wisconsin, who testified that he left Ford's Theatre after the murder, and went directly to the Vice-President's room at the Kirkwood House; did not see any one lurking about the door; after

his entry to the room several persons knocked on the door, but none were admitted who were not personally known to Mr. Johnson.

Three witnesses, guards in charge of Payne, then testified that they had heard the prisoner express a wish to die, as he was tired of life. They also testified to the constipation of Payne, which a doctor examined on the day before, had testified was one of the causes of insanity.

James R. O'Brien, usher at Ford's Theatre, testified that he noticed the broken lock of the President's box before its occupation on the night in question. The door leading from the passage separating the box from the theatre had no lock. [This is the door on which Booth used the bar.]

TESTIMONY FOR THE PROSECUTION RESUMED.

Marcus P. Norton was called to the stand, and stated that he was at the National hotel between January 19 and the middle of March; while at the hotel he saw Atzerodt twice in consultation with J. Wilkes Booth, and O'Laughlin four or five times; it was near Inauguration Day; overheard a conversation once between Atzerodt and Booth; the substance of it was that if the matter succeeded as well with Johnson as it did with Buchanan, they would get terribly sold; did not know what was referred to; witness recognized the prisoner, Mudd, as entering his room on March 2 or 3, in an excited manner, and then excusing himself, saying that he had made a mistake, and wanted to find the room of Booth; from his apparently excited manner, witness left his writing and followed Mudd into the hall, who went down-stairs. On cross-examination, witness stated that he was a lawyer, and reiterated his previous statement.

DEFENCE RESUMED.

L. G. Robey testified that Dr. Mudd told him that Booth had assassinated President Lincoln; this was on the afternoon of April 15; witness testified to Thomas' bad reputation for truth, but on cross-examination said that Thomas would tell things not true, though he believed them himself to be true. F. E. R. Bean first heard of the murder from Mudd, but understood that the assassin was a man named Boyle, who was said to have murdered a Capt. Watkins. John R. Giles corroborated the testimony of witnesses for defence who were with O'Laughlin on the nights of April 13 and 14. Mr. Reed swore positively that he met John H. Surratt in Washington on the afternoon of April 14; did not speak to him; witness recognized his photograph. Miss Anne Ward testified that Mrs. Surratt frequently failed to recognize her friends on account of her eyesight. Witness corroborated the testimony of the witnesses Weichmann and Hollehan in reference to going to the Heradon house with John Surratt to retain a room; had met Booth at Mrs. Surratt's; had received two letters postmarked Montreal, from Surratt, one on the day of the murder and another soon after; had delivered them to Mrs. Surratt and her daughter, and knew nothing further about them. Mr. Sessford, ticket-seller at Ford's theatre, testified that no tickets for the private boxes other than the one occupied by the President were sold on the 14th.

No further witnesses for the defence being in attendance, Mr. Doster made application for a personal examination to be made of the prisoner Payne by Dr. Nichols, Superintendent of the Government Institution for the Insane, for the purpose of testing the sanity of the prisoner, which application was granted. Mr. Doster also requested that the testimony for the defence be not considered as closed until George Powell, the father of Payne, and other witnesses, who had been summoned from Florida, who would testify in respect to Payne's antecedents and tendency on the part of the family to insanity, should be present. Col. Burnett stated that a reasonable time would be allowed for the defence to meet the new evidence introduced by the Government to-day, further than that he hoped there would be no postponement. The President of the court said that ample time had been allowed to obtain witnesses for the defence, and that the request of Mr. Doster would not be granted. The court adjourned until Monday morning.

PROCEEDINGS ON MONDAY, JUNE 5th

PROSECUTION RESUMED.

Several witnesses were called on the part of the prosecution, and testified the witness, Jenkins, was a notorious rebel. Two of them had seen the prisoner, Mudd, in Washington several times during the present year, and he was once seen to enter Mrs. Surratt's house. One witness testified that he had lived in the family of Mrs. Surratt for two years, and knew her to be intensely loyal.

Charles Duell testified that on May 2d he picked up the following letter in cipher, which he found floating in the water, near the Government wharf, in Morehead City, North Carolina. It was addressed to John W. Wise:

"WASHINGTON, *April* 15, 1865.

"DEAR JOHN:—I am happy to inform you that Pet has done his work well. He is safe and Old Abe is in hell. Now, sir, all eyes are on you. You must bring Sherman. Grant is in the hands of old Gray ere this. Red Shoes showed lack of nerve in Seward's case, but fell back in good order. Johnson must come. Old Crook has him in charge. Mind well that brother's oath, and you will have no difficulty. All will be safe and enjoy the fruits of labors. We had a large meeting last night. All were bent on carrying out the programme to the letter. The rails are laid for safe exit. Old L., always behind, lost the

pass at City Point. Now I say again, the lives of our brothers of force and the life of the South depend upon the carrying this programme into effect. No. two will give you this. It is ordered that no more letters shall be sent by mail. When you write, sign no real name, and send by some of our friends who are coming home. We want you to write us how the news was received there. We receive great encouragement from all quarters. I hope there will be no getting weak in the knees. I was in Baltimore yesterday. Pet had not got there. Your folks are well and have heard from you. Don't lose your nerve."

James Ferguson testified that he was present when the letter was found.

DEFENCE RESUMED.

The defence called relatives of Dr. Mudd, who testified that he was at home at the time he was reported to have been seen in Washington by various witnesses for the prosecution. William P. Wood, Superintendent of the Old Capital Prison, testified that he was intimately acquainted with the witness, Jenkins, and knew him to be a good loyal man. Several witnesses were then examined to disprove the testimony of witnesses for the prosecution in reference to the movements and character of Dr. Mudd, but nothing new was elicited. The court then went into secret session until the adjournment.

THE SUPPRESSED EVIDENCE.

The following is an abstract of the testimony hitherto suppressed relative to the rebel leaders, taken at the assassination trial at Washington:

Sanford Conover testified as follows:

"I am a native of New York; have resided in Canada since October last; was conscripted into the Confederate army, and detailed to service in the War Department of the Confederacy, at Richmond, under James A. Seddon, Secretary of War; while in Canada, was intimately acquainted with G. N. Sanders, Jacob Thompson, Dr. Blackburn, Tucker, Wm. C. Cleary, Capt. Castleman, Mr. Cameron, Porterfield, Capt. Magruder, and others; I also knew Clement C. Clay, and Gen. Carroll of Tennessee; I knew Mr. Surratt, also, and J. W. Booth, and visited these gentlemen in Canada; saw Surratt there on several occasions, last April, in Mr. Jacob Thompson's room, also in company with George N. Sanders, and other rebels in Canada; on April 7, Surratt, in the presence of Booth, Sanders and myself, delivered to Thompson in his room despatches from Benjamin and Jefferson Davis!" The witness then states a conversation held with Mr. Thompson previous to this, in which Thompson invited him to participate in a plot to assassinate President Lincoln and his Cabinet, and of which witness gave notice in the *New York Tribune*, the paper for which he corresponded. When Surratt delivered these despatches from Davis, Thompson laid his hand upon the papers and said, referring to the assassination and to the assent of the rebel authorities: "This makes the thing all right." The despatches spoke of the persons to be assassinated: Mr Lincoln, Mr. Johnson, the Secretary of War, the Secretary of State, Judge Chase and Gen. Grant. Mr. Thompson said on that occasion, or on the day before that interview, that the assassination proposed would leave the Government of the United States entirely without a head; that there was no provision in the Constitution of the United States by which they could elect another President. Mr. Welles was also named, but Mr. Thompson said it was not worth while to kill him; he was of no consequence. The first conversation with Thompson in reference to the assassination was in the early part of February in Montreal; after some remarks on the projected raids on Ogdensburg and New York, Thompson told the witness that there was a chance for him to immortalize himself and save his country; he said, "some of our boys are going to play a grand joke on Abe and Andy," which he said was to kill them; his words were, "remove them from office," and he said that the killing of a tyrant was not murder; that he had commissions for this work from the rebel authorities, and had conferred one on Booth; that everybody engaged in this enterprise would be commissioned, and if they escaped to Canada, they could not be successfully claimed under the Extradition Treaty; witness stated that he knew positively that Thompson held these commissions in blank, with the signature of James A. Seddon, rebel Secretary of War thereto, and that Thompson and Clay had the authority to fill out the commissions, and Clay did do so in the case of Bennett Young, the St. Alban's raider, and witness testified to the genuineness of Seddon's signature before Judge Smith.

Witness testified that Wm. C. Cleary was in the plot, and the assassination was spoken of among them as commonly as the weather. Before that, Sanders asked witness if he knew Booth very well, and expressed some apprehension that Booth would make a fizzle of it—that he was desperate and reckless, and he was afraid that the whole thing would be a failure. Witness communicated to the *Tribune* the intended raid on St. Albans and the proposed assassination of the President, but they refused to publish the letter. This was in March last, as to the President's assassination; also in February—certainly before the 4th of March. Surratt delivered the despatches in Thompson's room four or five days before the assassination. The whole conversation showed that Surratt was one of the conspirators to take the President's life. That was the substance of the conversation.

SAMUEL ARNOLD.

MICHAEL O'LAUGHLIN.

EDWARD SPANGLER.

G. A. ATZEROTH.

It was also understood that there was plenty of money when there was any thing to be done. The conversation indicated that Surratt had a very few days before left Richmond —that he was "just from Richmond." Witness said that he received no compensation while in Canada except as a *Tribune* correspondent; gave the *Tribune* information in regard to the Ogdensburg raid, and requested Mr. Gay, of that paper, to give the information to the Government, and believed he did so. In Thompson's conversation with witness in February, Vice-President Hamlin was mentioned as one of the victims of the plot, but after March 4, Mr. Johnson was named in his stead. Thompson said if the men who were engaged in this enterprise were detected and executed, the Confederate Government would retaliate. Booth was specially commissioned for the killing. There was a proposition before the agents of the rebels in Canada to destroy the Croton dam, by which the city of New York is supplied with water. It was supposed it would not only damage manufactures, but distress the people generally. Mr. Thompson remarked that there was plenty of force, and the city would be destroyed by a general conflagration, and if they had thought of this sooner, they might have saved a great many necks. This was said a few weeks ago. Thompson, Sanders, Castleman and General Carroll were present. Dr. Blackburn, the yellow fever plotter, was intimate with Thompson, Sanders, and other rebel notables, and proposed a scheme to poison the reservoirs in New York, which Thompson and Cleary heartily seconded. Blackburn had the capacity of the reservoirs and the amount of water generally kept in them, and made a calculation of the amount of poisonous matter it would require to impregnate the water so as to make an ordinary draught poisonous and deadly. They finally came to the conclusion that it would be too difficult and expensive to collect the poison, though a rebel medical purveyor named Pallen, and others, thought it could be managed in Europe. Witness had heard the name of J. W. Harris (Hyams) mentioned in connection with the pestilence importation. General, Carroll, of Tennessee, was more anxious that Johnson should be killed than any one else; Booth was nicknamed "Pet." Kennedy, who fired the city of New York and was executed, was spoken of as having performed that deed by authority of the rebel Government under the direction of Thompson; this was communicated to me by Thompson himself, or in conversation in his presence. Thompson said Kennedy deserved to be hanged, and he was devilish glad he was hanged, for he was a stupid fellow, and had managed things very badly. Witness saw Surratt in Canada three or four days after the assassination. Up to the time witness left Canada the plot for destroying the Croton dam was not abandoned.

James B. Merritt testified that in October or November last he met George N. Sanders and a Colonel Steele in Toronto, and heard them prophecy that Lincoln would never serve another term, if elected. At another meeting witness heard Sanders name a number of persons ready and willing to remove the President, Vice-President, the Cabinet, and some of the leading generals of the United States and he added that there was any amount of money to accomplish this purpose, meaning the assassination of these persons; he then read a letter, which he said he had received from the President of our Confederacy, meaning Jefferson Davis, and which letter justified him in making any arrangements that he could, to accomplish such object; there was a meeting at that time of these rebels, and a letter was read to them, the substance of which was, that if the Southerners in the Canadas and the States were willing to be governed by such a tyrant as Lincoln, he (Davis) did not wish to recognize them as friends, and that he approved of the proposition to assassinate him; Colonel Steele read the letter, also Captain Scott, George Young, and Hill, all rebels; this meeting was about the middle of last February; at the meeting Sanders named some of the persons who were to accomplish the assassination, and among them he named J. W. Booth, whom witness had seen in Montreal in October; he also named George Harper, Charles Caldwell, Randall, and Harrison; Harrold went by the name of Harrison; heard Surratt's name also mentioned, and Harrold; there was a person named whom they called "Plug Tobacco." I saw Harrold in Toronto; on the 5th or 6th of April witness met Harper, who said they "were going to kick up the d—dest row ever heard of," and prophesied the death of Lincoln and Johnson in less than ten days; Harper and others started for Washington on the 8th of April; witness communicated this fact on the 10th of April to a justice of the peace, named Davidson, who, after the assassination, communicated it to the Government; Harper returned to Canada after the assassination; had a conversation with C. C. Clay, in Toronto in February last; he spoke of the letter of Davis, which Sanders had exhibited; he seemed to understand the character of the letter perfectly, and said he thought the end would justify the means.

Richard Montgomery testified that he had met Thompson, Clay, George N. Sanders, J. P. Holcombe, Beverley Tucker, W. C. Cleary, Harrington, Hicks, and others, under fictitious names, in Canada; Thompson had several names; one was Carson; Clay was Holt, and Lacy, and Tracy; Jacob Thompson said he had friends of the Confederacy all over the Northern States, willing to go any lengths, and that he could, at any time, have the tyrant Lincoln, and any of his advisers, put out of the way; that his friends would not con-

sider it a crime, and that it would be done for the cause of the Confederacy; in January, 1865, Thompson said, at Montreal, that a proposition had been made to him to rid the world of the tyrants, Lincoln, Stanton, Grant, and some others; that he knew the men who made it were bold, daring men, able to execute any thing they would undertake; that he was in favor of the proposition, but deferred his answer until he had consulted his Government at Richmond; that he was then only waiting their approval; he thought it would be a blessing to the people, both North and South, to have them (the tyrants) killed; in the summer of 1864 witness saw the prisoner Payne in earnest consultation with Clay at the Queen's Hotel, in Toronto; witness had met Beverly Tucker in Canada since the assassination; he said "Mr. Lincoln deserved his death long ago," that "it was a pity he did not die long ago;" and that "it was too bad the boys had not been allowed to go when they wanted to;" he referred to the men who were to assassinate him; Cleary, Clay, and Thompson told witness since the murder, that they knew they were suspected of it, and they were destroying a great many papers; witness acted as a Government detective in Canada, and saw the cypher found among Booth's effects in Mr. Clay's house, at St. Catharine's, in the summer of 1864.

PROCEEDINGS ON TUESDAY, JUNE 6th.

Mr. Ewing asked for the recall of Daniel J. Thomas for the purpose of reëxamining him. He wished to show that the witness testified against Dr. Mudd from corrupt motives, expecting a large reward in case the doctor should be convicted. The court accordingly recalled Mr. Thomas, who was closely cross-questioned by Mr. Ewing. Witness stated that he had said to certain gentlemen that in giving evidence against Dr. Mudd he did not expect any reward, but if any reward should be given he would be glad to receive it. He had not claimed that he gave the first information which led to Dr. Mudd's arrest. This occurred in a conversation on the first of the present month, in the presence of John R. Richards, Benjamin J. Naylor, George Lynch, Lemuel Watson, Wm. Watson and James W. Richards, a magistrate, who rode up during the talk. James W. Richards, the magistrate referred to, testified that when he rode up, Thomas stated, in reply to a remark of one of the company, that he had called on William Watson and B. J. Naylor for a certificate that he was entitled to a portion of the rewards offered for the arrest of Booth and his accomplices; that he had informed the officers of Dr. Mudd's arrest, and that if they would certify to that fact he would be entitled to the reward; that if Dr. Mudd was convicted, he would receive $10,000; the certificate he wanted was that he informed them concerning Dr. Mudd's arrest, or of his having been arrested; he did not certify to having led to the arrest; the reputation of D. J. Thomas in the community in which he lives is very bad; witness would not believe him under oath if there was any money at stake; witness was a loyal man, but Thomas was not a loyal man at the beginning of the war. Other witnesses were then called by the defence to impeach Thomas' testimony, who testified that his reputation for veracity was bad. Other witnesses testified that Dr. Mudd was at home on the 1st, 2d, 3d, 4th and 5th of March. Drs. Allen and Clark testified that Mudd was at their houses on March 23; remembered the day as being one in which a tornado swept over the country.

Two witnesses were called relative to the confession of the prisoner Arnold, while on the way from Fortress Monroe to Baltimore, but their examination was not continued further than putting preliminary questions.

Mr. Aiken remarked that there were two or three witnesses he desired to examine still in defence of Mrs. Surratt, but that if they did not appear before the witnesses for the other prisoners had all been examined, he would not ask for any delay, but would be ready at any time to sum up in her defence. The President of the court notified the counsel that, in accordance with the uniform practice of courts-martial, they would be required to present their arguments in writing. The Judge Advocate-General also stated an order to guard counsel against unnecessary delay, that following the usual course in courts-martial, no opening would be made on the part of the Government; arguments on behalf of the accused would be made, to which a reply would be made on behalf of the Government, and no further arguments allowed. Mr. Aiken and Mr. Ewing remarked that they would prefer that the Government should in advance indicate its own theory in respect to the accused. The Judge Advocate replied that their general course of examination would indicate that.

WEDNESDAY'S TESTIMONY, JUNE 7th.

Witnesses were examined to impeach the testimony of Johnson, who had given evidence strongly against Dr. Mudd.

It was stated by Mr. Ewing that subpœnas had been issued for thirteen witnesses in behalf of Mudd.

Witnesses to-day were slow in making their appearance, and thus much of the time of the court was wasted.

John W. Wharton testified that Arnold was in his employ at Fortress Monroe from April 2d to the 17th.

Witnesses were called to establish the good character and loyalty of Lewis Weichmann, an important witness for the Government.

John T. Hallahan, who commenced board-

ing at Mrs. Surratt's on the 15th of February, testified that he saw Payne there once at breakfast, and Atzerodt several times at meals; Payne, at the time, was known by the name of Wood.

Witness saw John Surratt with Payne, and noticed Booth in the parlor frequently.

TESTIMONY ON THURSDAY, JUNE 8th.

DEFENCE RESUMED.

On Thursday Col. J. C. Holland, Provost-Marshal of the 5th Congressional District of Maryland, testified that he had never received a letter from the witness, D. J. Thomas, to the effect that Dr. Samuel A. Mudd had said to him that President Lincoln, his whole Cabinet, and every Union man in Maryland, would be killed within six or seven weeks; never received a letter from Thomas in which the name of Dr. Samuel A. Mudd was mentioned; did receive a letter from him dated February 9th, 1865; Mr. Thomas was what was called an independent detective.

PROSECUTION RESUMED.

Very important evidence was produced by the prosecution relative to the burning by rebel agents of National Army Hospitals and steamboats in the Western and South Western waters engaged in carrying troops and army supplies; a Mr. Tucker, Minor Mayers, of Missouri, Thomas L. Clark, and a Col. Burrett were engaged in these operations; among the boats burned were the Imperial, Robert Campbell and Daniel D. Taylor; there was great loss of life in some of them; witness was in Richmond with Thomas L. Clark and a man named Dillingham who burned the United States Hospital at Nashville; they presented a claim on the rebel Government for their incendiary operations, and after some difficulty the claim was allowed by Benjamin and Jeff. Davis, the incendiaries receiving $50,000, $35,000 down in gold and $15,000 on deposit; while witness was in Richmond Jeff. Davis sent for him and proposed the burning of the long bridge at Nashville, offering through Mr. Benjamin $400,000 for the job, and wanting witness to take charge of it: witnesses were produced by the defence for the purpose of showing that Dr. Mudd had expressed regret at the assassination; that Atzerodt was a coward, and therefore not likely to be engaged in such a plot, and that Daniel J. Thomas and Marcus P. Norton, two witnesses for the Government, were not to be believed.

TESTIMONY ON FRIDAY, JUNE 9th.

DEFENCE RESUMED.

Miss Mary Mudd, sister of Dr. Mudd, was called, and contradicted much of the testimony heretofore given against him. Several witnesses for the defence testified against the character for truthfulness of some of those who had been examined for the Government. The testimony this afternoon was mainly with regard to the character of the witnesses on both sides. Benjamin Gardner, for the accused, testified that on Sunday after the assassination he met Dr. Mudd at church, and asked if the assassination was a fact. Mudd replied that it was so said, and that the people ought to raise a home guard, and arrest all suspicious persons in the county.

PROSECUTION RESUMED.

A number of witnesses were called on the part of the prosecution in regard to the character for varacity and integrity of Mr. L. F. Bates, a witness for the Government who testified that on the 19th of April last Jefferson Davis stopped at his house in Charlotte, N, C.; that he there made a speech, during which he received a telegram from John C. Breckenridge announcing the death of President Lincoln, when he made the remark: "If it were to be done, 'twere better it were well done," etc. All of the witnesses testified that they had known Mr. Bates for years, and never knew or heard of his character being questioned.

The Hon. C. A. Dana was then recalled for the prosecution, and identified certain letters as having been received by him as Assistant-Secretary of War, from Major-General Dix. One of the letters, bearing date Nov. 17, 1864, was signed by General Dix, and was explanatory of the other, which has already been reported, being the one found in a Third-Avenue Railroad car in New York City, and commencing as follows; "St. Louis, Oct. 21, 1864. Dearest Husband: Why do you not come home? You left me for two days only, and you now have been from home more than two weeks; in that long time you only wrote me one short note—a few cold words—with a check for money, which I did not require," etc. The witness stated further that, upon receipt of the letters in question, he took them to President Lincoln, who looked at them without making any particular remark, as this was only one instance among many in which such communications had been received. The President, however, attached more importance to these communications than to others, as the witness subsequently found them in an envelope which was marked in the President's handwriting—"Assassination."

EVIDENCE ON SATURDAY, JUNE 10th.

DEFENCE RESUMED.

On Saturday, after the defence had introduced a few witnesses, a portion of the evidence of whom was designed further to impair the character and statements of Daniel J. Thomas, the strong witness against Dr.

Mudd, the counsel for Spangler and Arnold announced that so far as those two prisoners were concerned the case of the defence was closed. The counsel for Payne requested a further postponement to enable Dr. Nichols to report on the question of his sanity, and also to enable the accused to have the benefit of the testimony of his father, a Rev. Mr. Powell of Florida, who had not yet arrived. The President of the Court announced that that till 11 o'clock on Monday would be allowed for Dr. Nichols's report, but that, as much delay had already been caused by the non appearance of the reverend gentleman from Florida, the court could not wait for him much longer.

PROSECUTION RESUMED.

Several witnesses were called by the prosecution, one of whom, Mr. Henry G. Edson of St. Albans, Vt., who was one of the counsel in the examination of the St. Albans raiders in Canada, testified to expressions he had heard George N. Sanders give utterance to. Sanders said he was pleased with the St. Albans raid, and that it would be followed by numerous others of a much more formidable character; that there were organizations ready to burn and sack Buffalo and other cities, and that the Government, though it might defer these monstrous villainies, could not prevent them.

Lieut. John L. Ripple, of the 39th Illinois regiment, testified that while he was a prisoner at Andersonville, Ga., he heard rebel officers say that President Lincoln would never be inaugurated, and that the rebels had a party in the North who would attend to Messrs. Lincoln and Seward. This witness also gave additional testimony regarding the cruel treatment of imprisoned National soldiers at Andersonville, and the systematic manner in which they were starved.

EVIDENCE ON MONDAY, JUNE 12th.

DEFENCE RESUMED.

Mrs. L. Grant and her husband, John Grant, testified that they saw the prisoner Payne defending the lives of Union prisoners from the fury of their captors at the risk of his own. This was at Warrenton, Va., last Christmas. Payne at that time seemed to be a Confederate officer, and went by the name of Powell.

J. B. Patterson testified that O'Laughlin was with him on the night of April 13, and not at Secretary Stanton's, as had previously been testified. Witness swore positively that the prisoner was not near the house of the Secretary of War, in Franklin Square, on Thursday evening, April 13.

PROSECUTION RESUMED.

Asst. Adjt. Gen. Townsend was called to the stand, and handed in as evidence a paper indorsed in the handwriting of the rebel Gen. Rains. The paper referred to was given in evidence without objection. It is dated December 16, 1864, and is addressed to Capt. Z. McDaniel, commanding Torpedo Company, and signed John Maxwell. It sets forth in substance that, in obedience to the order of the person to whom it is addressed and with the means and equipment furnished by him, the writer left Richmond on the 26th of July, 1864, for the line of the James river, to operate with the horological torpedo against the enemy's vessels navigating that river. The writer was accompanied by R. K. Dillard, whose services were engaged for the expedition. After sundry adventures, these two men reached City Point before daybreak on the 9th of August last, and the writer gives the result of his operations as follows: "Requesting my companion to remain behind about half a mile, I cautiously approached the wharf with my machine and powder covered by a small box; finding the captain had come ashore from a barge then at the wharf I seized the occasion to hurry forward with my box; being halted by one of the wharf sentinels, I succeeded in passing him by representing that the captain had ordered me to convey the box on board; hailing a man from the barge, I put the machine in motion and gave it in his charge; he carried it aboard. The magazine contained about twelve pounds of powder; rejoining my companion, we retired to a safe distance to witness the effect of our efforts; in about an hour the explosion occurred; its effect was communicated to another barge beyond the one operated upon, and also to a large wharf building containing the enemy's stores, which was totally destroyed; the scene was terrific, and the effect deafened my companion to an extent from which he has not recovered; my own person was severely shocked, but I am thankful to Providence that we have both escaped without lasting injury; we obtained and refer you to the inclosed slip from the enemy's newspapers, which afford their testimony of the terrible effects of the blow; the enemy estimated the loss at 58 killed and 126 wounded but we have no reason to believe it greatly exceeded that; the pecuniary damage was heard estimated at $400,000; but, of course, we can give you no exact account of its extent; the indorsements on the letter were by Z. McDaniel, Capt. of C. A., Secret Service, and G. J. Rains, Brig. Gen.

Richard Montgomery was reëxamined, and identified a letter from Clement C. Clay, addressed to J. P. Benjamin, rebel Secretary of State, in reference to the St. Albans raiders and the Lake Erie pirates, which was delivered to witness to carry to Richmond, but which he delivered to Assistant Secretary of War Dana, at Washington; and witnesses were called to establish the character of a lawyer Norton—a Government witness—for credibility.

PROCEEDINGS OF TUESDAY, JUNE 13th.

Mr. Cox called the attention of the court to the following item in the *Evening Star* of yesterday, copied from a Maryland newspaper:

A MYSTERIOUS LETTER.

On the 4th inst., two men, named French and McAleer, of South Branch, Va., were arrested by Major Meyers, and brought to this city and lodged in the guard house, on the charge of writing a mysterious letter, addressed to J. Wilkes Booth, and which was submitted before the Assassination court at Washington. It turns out now that the letter was a fraud, perpetrated by a person named Purdy; who is said to be a Government detective, and who, entertaining a bitter hatred towards the parties arrested, availed himself of this mode of wreaking revenge. French and McAleer have been released, and Purdy has since been arrested and placed in close confinement, on the charge of committing the alleged fraud.—*Cumberland, Maryland, Union.*

Mr. Cox said if this letter was a fraud the defence ought to have the benefit of it. He had not been able to find it (the letter in question), but supposed it referred to the letter addressed to G. W. B. at the National Hotel.

Judge Bingham said it bore date April 6th, 1863. The matter should not go on record. If the parties want Purdy let him be brought here, but he objected to introducing newspaper paragraphs for which nobody was responsible.

Judge Holt said the matter was now undergoing investigation, and there would certainly be no concealment made of the result. It should not go on the record.

Mr. Ewing said several papers of equally loose character had been placed on the record, and he instanced the letter found floating in the water at Morehead City, N. C.

The court took a recess till 2 P. M., in order for a medical survey as to Payne's alleged insanity. At 2 P. M., the Commission re-assembled.

TESTIMONY OF DR. JAMES C. HALL.

The witness stated that he had examined the prisoner Payne, first in regard to his physical condition; his eye had a perfectly natural look, except that it had no intellectual expression, though capable of evincing a great deal of passion and feeling. The shape of his head was not symmetrical, the left side being much better developed than the right; his pulse was about thirty (30) strokes above the natural average; in other respects, with the exception of a matter in regard to which the court had been informed, his health seemed to be good: before questioning him in regard to his memory, the prisoner answered all questions put to him willingly, but his mind appeared to be very inert, his intellect was of a very low order, and dull and feeble. The witness described to the prisoner a supposed case in which a person had committed the crime with which he was charged, and asked him whether he thought a person who committed such an act would be justified, and he said he thought they would. Upon inquiring his reason for this opinion, his answer amounted to this, that he thought in war a person was entitled to take life.

I should say from my examination of the the prisoner that there are reasonable grounds for believing that he is insane. It seems to me that no man who was perfectly sane could exhibit the same utter insensibility which the prisoner manifests. There was no attempt at deception—he answered my questions so far as his mind would permit him without any apparent intent to deceive or mislead me. I could not give a positive opinion as to whether he was laboring under either moral or mental insanity.

Mr. Doster asked that the witness be permitted to continue his examination into the alleged insanity of the prisoner. The request was acceded to and Dr. Stevens, Surgeon-General Barnes and Surgeon Norris were appointed by the court to assist Dr. Hall in the examination.

TESTIMONY OF JOHN HOXLEN.

Mrs. Surratt's reputation is that of a truthful, kind and good Christian lady. I regarded J. Z. Jenkins, two years ago, as a good Union man; I know nothing of his opinions now.

TESTIMONY OF W. W. HOXLEN.

[This witness confirmed the testimony of John Hoxlen]

TESTIMONY OF HENRY HAWKINS, COLORED.

Mrs. Surratt always treated me kindly; on one occasion she fed and took care of several Government horses that had broke out from the Government stables; she frequently fed Union soldiers.

TESTIMONY OF RACHAEL SEMUS, COLORED.

[This witness corroborated the above.]

TESTIMONY OF JOHN M. LLOYD.

When the carbines were first brought to my house, they were taken up-stairs by John H. Surratt and myself, and put between the joists, where they remained until the day when Mr. Surratt called to give directions in regard to them, which was Friday, the 14th of April; in accordance with her directions, I took them out from where they had been secreted, and kept them ready for whoever would call for them; that night I had prepared two bottles of whiskey (a bottle was exhibited to the witness, which he stated to be like those used in his bar-room, but was not one of the two of which he had spoken.)

TESTIMONY OF MRS. OFFRET.

Lloyd was very drunk on the evening of April 14. I did not hear the full confession of Lloyd to Captain Cottingham, but heard some remarks. I did not hear him say "That vile woman, she has ruined me." Mrs. Surratt requested me to give Lloyd a package, which I did. I do not know what was in the package.

TESTIMONY OF MAJOR ECKERT.

The witness stated that the day on which General B. F. Butler was ordered to leave for New York, after the last Presidential election, was the 11th of November, and that General Butler made application to be allowed to remain until the following Monday, the 14th of November, which application was granted.

TESTIMONY OF RICHARD MONTGOMERY.

The witness stated that the hour for the departure of the train that left Montreal, Canada, to connect with the through trains for Washington, was three o'clock P. M.; that the distance between Montreal and Washington was usually travelled in thirty-six to thirty-eight hours; that a person leaving Montreal at three o'clock on the afternoon of the 12th of April could reach Washington before daylight on the morning of the 14th.

TESTIMONY OF J. S. DEBONAY.

At the time the pistol was fired on the evening of the assassination, I was on the stage of Ford's theatre, leaning against the corner of a scene on the left hand side; when I first saw the prisoner, Spangler, after the escape of Booth, he was shutting the scene back so as to allow the people to get upon the stage; that was about a minute and a half after Booth ran across the stage, followed by Mr. Stewart; Spangler then ran to the green-room to get some water for the persons in the President's box; I saw Spangler go to the door when Booth called him, previous to the assassination; did not hear any conversation between Spangler and Booth; witness was on the pavement in front of the theatre about five minutes before the assassination; did not see Spangler there at any time; never knew Spangler to wear a heavy mustache.

The counsel for the prisoners except in the case of the prisoner, Payne, whose alleged insanity is yet to be reported upon, severally stated that their defence had closed. Adjourned.

PROCEEDINGS OF WEDNESDAY, JUNE 15th.

The previous day's record was read, when the commission took a recess until 2 o'clock, in order to allow an examination of the prisoner Payne by the commission appointed for that purpose. The commission reassembled at 2 o'clock, when Mr. Doster stated that he had closed the defence in the case of the prisoner Payne, and did not purpose to call as witnesses the medical gentlemen who had been appointed to investigate the condition of Payne as to his insanity.

Judge Holt then stated that those gentlemen would be called for the Government.

TESTIMONY OF DR. JAMES C. HALL.

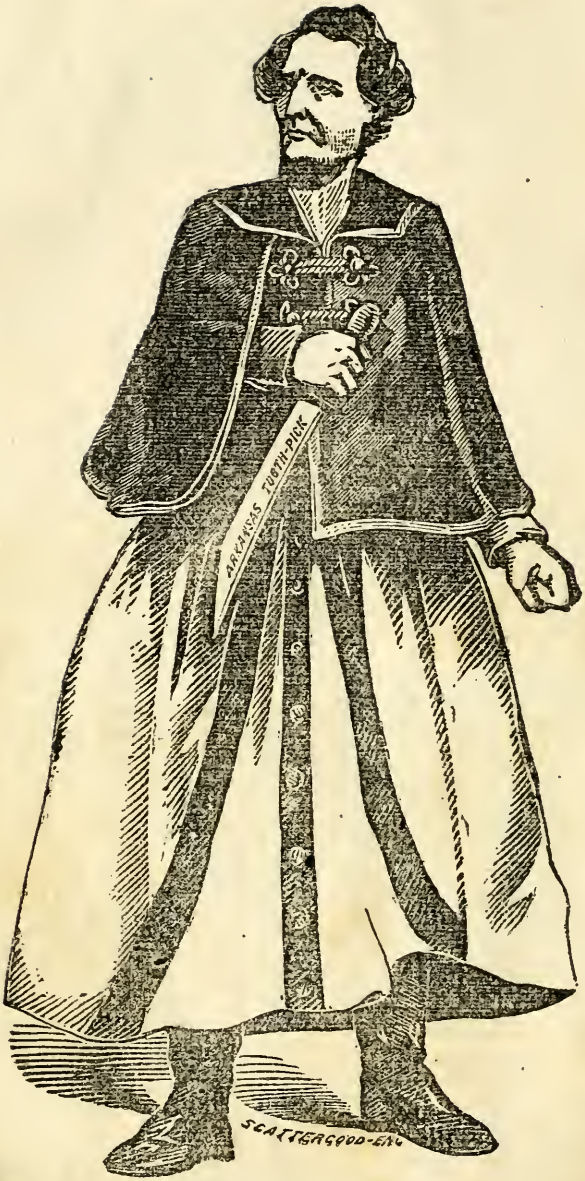
By Judge Holt.—The witness had examined the prisoner Payne, this morning, and was assisted by Drs. Norris and Porter, and subsequently Surgeon-General Barnes joined in the examination. The prisoner was asked almost the same questions that were put to him yesterday, for the purpose of ascertaining whether his answers would be similar; he answered with rather more promptness than before, and his answers were much the same; in my judgment there is no evidence of mental insanity; the prisoner's mind is feeble and uncultivated, but I cannot discover sufficient evidence of mental incapacity; so far as the moral insanity is concerned, we asked him the question to-day whether he believed in a God. He said that he did, and that he was a just God; he also acknowledged to me that at one time he had been a member of the Baptist church; I asked him the question whether he thought that the assassination of an enemy in time of war was justifiable, and after a little hesitation he believed it was.

TESTIMONY OF DR. DAVIS.

The witness, in company with Surgeon General Barnes and other medical gentlemen, made an examination this morning of the prisoner Payne, and arrived at the conclusion that he was a sane man. There was nothing in the prisoner's looks, speech, or conduct, to indicate that he was of unsound mind; on the contrary, his reasoning faculties appeared to be good, as also his judgment. I am not familiar with cases of insanity; I do not think the conduct of the prisoner during the examination could have been that of a madman. The prisoner might be a monomaniac, but if such was the case, the witness would probably have had his suspicions aroused, as such persons almost invariably, in conversation with strange persons, refer to the subject of their insanity.

TESTIMONY OF SURGEON-GENERAL BARNES.

The prisoner Payne was examined by the the witness, and other medical gentlemen, but no evidence of insanity was discovered. The coherent manner in which he narrated his story of himself, giving the places at which he had been, and his occupation, and more important than all, his reiteration of the statements made by him on yesterday, were proofs of his sanenes.



PORTRAIT OF "JEFF. DAVIS," IN HIS WIFE'S CLOTHES.

TESTIMONY OF DR. PORTER.

Having been present this morning at the examination of the prisoner Payne, the witness believed that he was a sane man. The prisoner had been under the witness' care since his confinement in the arsenal, and from the inspections which he had made, witness arrived at the conclusion that he was a sane and responsible man.

The cross-examination of this witness was mainly with reference to what constituted mental or moral insanity, and was terminated by the President of the court objecting to the course of examination as improper.

Assistant Judge-Advocate Bingham entered upon the record several papers, among which was a certified copy of the resolution of the Senate of the United States consenting to and advising the appointment of William H. Seward Secretary of the United States, and the qualification of Andrew Johnson on the 15th of April, 1865, as President of the United States.

Judge Holt said that some additional testimony relating exclusively to the general conspiracy, and not affecting either of the prisoners particularly, would be offered on behalf of the Government. Having understood that one of the arguments for the defence had been fully prepared, he desired the court to hear it with the understanding that it should not preclude the offering of this testimony.

Mr. Aiken said it was the wish of the counsel that all the testimony which the Government had should be handed in before that argument was presented to the court. It had been thought possible that Mr. Johnson himself would be present to-morrow to deliver the argument in person. If he was not present, Mr. Champitt, by agreement among the counsel, would present the argument to the court.

Judge Holt inquired as to which of the prisoners the argument was intended to apply.

Mr. Aiken said it was an argument relative to the jurisdiction of the court, which was prepared by Mr. Johnson, and in which all the counsel concurred. It was intended for all the prisoners.

Assistant Judge-Advocate Bingham said that Mr. Johnson was not counsel for all the prisoners.

General Wallace said that if the argument on the jurisdiction of the court was ready, it would not be improper for the court to hear it, and in order to consider the question he moved that the court be cleared. The motion was agreed to, when the court was cleared. After some time the doors were reopened, and it was announced that the court had adjourned until Friday morning at 11 o'clock.

PROCEEDINGS OF FRIDAY, JUNE 16th.

Colonel Tompkins, a member of the court, was not present at the session of the court to-day, on account of indisposition.

EXAMINATION OF ROBERT PURDY.

By Judge Advocate Holt.—The witness said he resided in Virginia, and had been in the government service since 1861; a letter, heretofore reported, purporting to have been dated at South Branch Bridge, Va., April 6th, 1865, addressed to "Friend Wilkes," and referring to certain oil speculations, and suggesting an escape by way of Thornton's Gap, in case the party failed to get through on his trip after striking ile, was shown to the witness, who stated that he had never seen it before. The witness testified that the allusion to Purdy contained in the letter had reference to himself; that the writer was known to him as a person by the name of Jonas McAleer, and that some of the allegations of the letter, especially that with reference to a difficulty with the girl spoken of, were untrue.

Cross-examined by Mr. Aiken. — South Branch bridge is on a branch of the Potomac river, about twenty-two miles from Cumberland. Letters are not usually mailed from South Branch bridge, but from a little village known as Green Spring Run, just above it. There is no post-office box at South Branch bridge. There are no oil wells in that vicinity.

EXAMINATION OF D. S. EASTWOOD.

By Judge Advocate Holt.—I live in Montreal, Canada, and am Assistant Manager of the Montreal branch of the Ontario Bank; I am acquainted with Jacob Thompson, formerly Secretary of the Interior of the United States, and with the account which he kept in the Ontario Bank. The moneys deposited in that bank to his credit, accrued from the negotiation of bills of exchange drawn by the Secretary of the Treasury of the so-called Confederate States upon their agents at Liverpool. Q. State whether or not in the course of the disbursements made by Jacob Thompson of the fund placed to his credit, this requisition was drawn on the bank—(exhibiting to witness a paper given below.) A. It was; it is in my handwriting. Q. Please read it to the court. A. (Reading the paper)—Montreal, Aug. 10th, 1864. Wanted from the Ontario Bank on New York, in favor of Benjamin Wood, Esq., for $25,000 current funds, $10,000 debit, $15,000. The paper shows that the requisition was originally drawn in favor of Benjamin Wood, Esq., and that the name of D. S. Eastwood was afterwards substituted. Q. State the exact condition of that paper. A. As it now reads it is a draft on New York, payable to the order of Dr. D. S. Eastwood, that is, myself. Q. State how that change in the requisition occurred. A. The name of Benjamin Wood, as it appeared originally, was erased at Mr. Thompson's request, and my name as an officer of the bank was substituted. Q. That is the original paper, is it not? A. It is.

Q. Now look at this bill of exchange (exhibiting another paper to witness), and state whether it was drawn upon that requisition? A. It was.

By request of the Judge-Advocate, the witness then read the paper to the Court. It is dated Montreal, August 10, 1864, and is directed to the cashier of the City Bank, New York, the wording being as follows: "At three days sight, please pay to the order of D. S. Eastwood, in current funds, twenty-five thousand dollars, value received, and charge the same to account of this branch." The endorsement on the bill directs the payment to be made to Hon. Benj. Wood, or order. Signed B. F. Wood. Q. You state that the $250,000 for which this bill was drawn, is the same for which that requisition was made by Mr. Thompson in the name of Benj. Wood? A. It was. Q. State whether or not the bill of exchange you have just read is the original one? A. It is. Q. Where did you obtain it? A. I obtained it in New York, from the cashier of the bank on which it was drawn. Q. Does it bear the marks of having been paid? A. I am not acquainted with the usual marks of cancelling in New York, but I understood that it was paid.

The witness stated further that he was not acquainted with the Benjamin Wood refered to, but he supposed it to be the same who at the date of that transaction was a member of the Congress of the United States.

Cross-examined by Mr. Aiken.—I do not recollect of having ever cashed any drafts or checks in favor of either James Watson, Wallace, Richard Montgomery, James B. Merrit, or John Wilkes Booth. About the 2st of October last, Booth purchased a bill on the bank of Montreal with which witness was connected. Never heard the name of John H. Surratt mentioned before.

The Judge-Advocate exhibited to the witness a list of localities upon which drafts had been made by the Ontario Bank, and requested him to give the dates and amounts of drafts which, as shown by the paper, had been drawn on New York. The witness stated that the following were among the number of drafts drawn on the 3d of October last:—A draft for $10,000 in gold; on the 11th of October one for $5,000 in gold; on November 3d, 4th, and 8th, bills for about $6,000 in United States currency; on the 14th and 21st of March last, small drafts were also drawn.

EXAMINATION OF GEORGE WILKES.

By Judge-Advocate Holt.—I am acquainted with Benjamin Wood of New York, and know his handwriting.

The endorsement "B. Wood" on the back of the bill of exchange given above was exhibited to the witness, and the handwriting identified by him as that of Hon. Benjamin Wood of New York

The witness stated further that at the time at which the paper appeared to have been dated, Wood was a member of the Congress of the United States, and, he believed, editor and proprietor of the New York *Daily News*.

EXAMINATION OF MR. ABRAM D. RUSSELL.

By Judge-Advocate General Holt.—I am acquainted with Benjamin Wood, of the city of New York, and know his handwriting; the endorsement on the bill of exchange exhibited to the previous witness was identified by this witness to be the handwriting of Mr. Wood; at the time of the date of that bill of exchange Mr. Wood was a member of the Congress of the United States and editor and proprietor of the New York *Daily News*; the witness had been in the habit of receiving letters from Mr. Wood.

The court then took a recess until two o'clock. Upon reassembling, Judge-Advocate Holt suggested that if the argument of the counsel for the defence was now commenced, in the absence of Colonel Tompkins, a member of the court, who was indisposed, it would have to be read over to him during a subsequent session of the court. He thought there would be no loss of time to the court if an adjournment was taken till Monday. The court accordingly adjourned till Monday, at ten o'clock.

ARGUMENTS OF COUNSEL FOR DEFENCE, ON MONDAY, JUNE 19th.

Mr. Aiken stated to the court that he should not be prepared until Wednesday to read the argument in the case of Mrs. Surratt. The delay was attributable to the voluminous evidence previously to be examined by him.

REVERDY JOHNSON'S ARGUMENT.

Mr. Clampitt read the argument addressed to the President and Gentlemen of the Commission signed by Reverdy Johnson, and concurred in by Frederick A. Aikin and John W. Clampitt, as Associate Counsel for Mrs. Mary E. Surratt.

It commences by asking, Had the Commission jurisdiction of the cases before it? That question, in all courts, civil criminal and military, must be considered and answered affirmatively before judgment can be pronounced, and it must be answered correctly, or the judgment pronounced is void. Ever an interesting and vital inquiry, it is of engrossing interest and awful importance when error may lead to the unauthorized taking of human life. In such a case the court called upon to render, and the officer who is to approve its judgment and have it executed have a concern peculiar to themselves. As to each a responsibility is involved, which, however conscientiously and firmly met, is calculated and cannot fail to awaken, great solicitude. and induce the most mature consideration,

The nature of the duty is such that even honest error affords no impunity. The legal personal consequences even in a case of honest mistaken judgment, cannot be avoided. Every member composing the commission will meet all the responsibility that belongs to it as becomes gentlemen and soldiers. So far the question of jurisdiction has not been discussed. The pleas which specially present it, as soon as filed, were overruled. But that will not, because properly it should not, prevent the commission from considering it with the deliberation which its grave nature demands. It was for them to decide it, and at this time for them alone. The commission under which they were acting does not, and could not decide it. If authorized, it is a mere nullity—the usurpation of a power not vested in the Executive, and conferring no authority upon them. To hold otherwise would be to make the Executive the exclusive and conclusive judge of its own powers, and that would be to that department omnipotent. The powers of the President under the Constitution are great, and amply sufficient to give all needed efficiently to the office. The convention that formed the constitution, and the people who adopted it, considered these powers sufficient, and granted no others. In the minds of both (and subsequent history has served to strengten the impression) danger to liberty is more to be dreaded from the Executive than from any other department of the Government. So far, therefore, from meaning to extend its powers beyond what was deemed necessary to the wholesome operation of the Government, they were studious to place them beyond the reach of abuse.

With this view, before entering on the execution of his office, the President is required to take an oath "faithfully to discharge its duties, and to the best of his ability preserve, protect and defend the Constitution of the United States." He is also liable to "be removed from office on impeachment for and conviction of treason, bribery or other high crimes and misdemeanors." If he violates the Constitution, if he fails to preserve it, and, above all, if he usurps powers not granted, he is false to his official oath, and liable to be indicted and convicted, and to be imprisoned. For such an offence, his removal from office is the necessary consequence. In such a contingency, "he shall be removed," is the command of the Constitution. What stronger evidence could there be that his powers, all of them, in peace and in war, are only such as the Constitution confers? But if this was not evident from the instrument itself, the character of the men who composed the Convention, and the spirit of the American people at that period would prove it. Hatred of a monarchy, made the more intense by the conduct of the monarch from whose government they had recently separated, and a deep-seated love of constitutional liberty, made the more keen and active by the sacrifices which had illustrated their revolutionary career, constituted them a people who could never be induced to delegate any executive authority, not so carefully restricted and guarded as to render its abuse or usurpation almost impossible.

If these observations are well founded, it follows that an executive act beyond executive authority can furnish no defence against the legal consequences of what are done under it. Unless jurisdiction exists, the authority to try does not exist, and whatever is done is *coram non judice*, and utterly void. This doctrine is as applicable to military as to other courts. The question then being always open, and its proper decision essential to the validity of its judgment, the commission must decide, before pronouncing such judgment, whether it has jurisdiction over these parties and the crime imputed to them. That a tribunal like this has no jurisdiction over other than military offences, is believed to be self-evident. That offences defined and punished by the civil law, and where trial is provided for by the same law, are not the subjects of military jurisdiction, is of course true. A military, as contra-distinguished from a civil offence, must therefore be made to appear, and when it is, it must also appear that the military law provided for its trial and punishment by a military tribunal. If that law does not furnish a mode of trial, or affix a punishment, the case is unprovided for, and as far as the military powers are concerned, is to go unpunished. But as either the civil, common or statute law embraces every species of offence that the United States or the States have deemed it necessary to punish, in all such cases the civil courts are clothed with every necessary jurisdiction. In a military court, if the charge does not state a "crime provided for generally or specifically by any of the articles of war," the prisoner must be discharged. [O'Brien, p. 235.] Nor is it sufficient that the charge is of a crime known to the military law. The offender when he commits it must be subject to such law, or he is not subject to military jurisdiction. The general law has "supreme and undisputed jurisdiction over all. The military law puts forth no such pretention; it aims solely to enforce on the *soldier* the additional duties he has assumed. It constitutes tribunals for the trial of breaches of military duty only." [O'Brien, 26, 27.] "The one code (the civil) embraces all citizens, whether soldiers or not; the other (the military) has no jurisdiction over any citizen as such. [*Ib.*] The provisions of the Constitution clearly maintain the same doctrine. The Executive has no authority to declare war, to raise and support armies, to provide and maintain a navy, or to make "rules for the government and regulation" of either force. These powers are exclusively in Congress. The army cannot be

raised or have law for its government and regulation, except as Congress shall provide. This power of Congress was granted by the Convention without objection. In England, the king, as the generalissimo of the whole kingdom, has this sole power, though Parliament has frequently interposed and regulated for itself. But with us it was thought safest to give the entire power to Congress, since otherwise summary and severe punishments might be inflicted at the mere will of the Executive. [3 Story's Com., sec. 1192.] No member of the Convention, nor any commentator on the Constitution since, has intimated that even this congressional power could be applied to citizens not belonging to the army or navy. The power given to Congress is "to make rules for the government and regulation of the land and naval forces." No artifice of ingenuity can make these words include those who do not belong to the army and navy. And they are therefore to be construed to exclude all others, as if negative words to that effect had been added. And this is not only the obvious meaning of the terms considered by themselves, but is demonstrable from other provisions of the Constitution. So jealous were our ancestors of ungranted power, and so vigilant to protect the citizen against it, that they were unwilling to leave him to the safeguards which a proper construction of the Constitution as originally adopted furnished. In this they resolved that nothing should be left in doubt. They determined, therefore, not only to guard him against executive and judicial, but against congressional abuse. With this view they adopted the fifth constitutional amendment, which declares that "no person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, *except in cases arising in the land or naval forces, or in the militia when in active service in time of war or public danger.*"

This view was elaborated by reference to high legal authority, and the constitutional questions discussed at length by Mr. Johnson.

The sixth amendment, which our fathers thought so vital to individual liberty when assailed by governmental prosecution, is but a dead letter, totally inefficient for its purpose whenever the government shall deem it proper to try a citizen by a military commission. Against such a doctrine the very instincts of freemen revolt. It has no foundation but in the principle of unrestrained tyrannic power and passive obedience. If it be well founded, then are we indeed a nation of slaves, and not of freemen.

The counsel then proceeded to examine, with somewhat of particularity, the grounds on which he is informed the jurisdiction of this commission is maintained, and argued, in the second place, that if the power in question is claimed under the authority supposed to be given to the President, in certain cases, to suspend the writ of habeas corpus and to declare martial law, the claim is equally, if not more evidently, untenable.

The act of 1806, establishing the articles of war, provides for no military court like this, and does not embrace the crimes charged against these parties or the parties themselves; and, until the rebellion, he was not aware that a different construction was ever intimated. It is the exclusive fruit of the rebellion.

In the course of his elaborate argument, Mr. Johnson says:—"As counsel for one of the parties, I should esteem myself dishonored if I attempted to rescue my client from a proper trial for the offence charged against her, by denying the jurisdiction of the commission upon grounds that I did not conscientiously believe to be sound; and in what I have done, I have not more had in view the defence of Mrs. Surratt than the constitution and laws. In my view, in this respect, her cause is the cause of every citizen. And let it not be supposed that I am seeking to secure impunity to any who may have been guilty of the horrid crimes of the night of the 14th of April. Over these, the civil courts of this District have ample jurisdiction, and will faithfully exercise it if the cases are remitted to them—and if guilt is legally established, will surely award the punishment known to the laws. God forbid that such crimes shall go unpunished. In the black catalogue of offences these will forever be esteemed the darkest and deepest ever committed by sinning man. And, in common with the civilized world, do I wish that every legal punishment may be legally inflicted upon all who participated in them. A word more, gentlemen, and thanking you for your kind attention, I shall conclude. As you have discovered, I have not remarked on the evidence in the case of Mrs. Surratt, nor is it my purpose. But it is proper that I refer to her case in particular for a single moment. That a woman well educated, and, as far as we can judge from her past life, as we have it in the evidence, a devout Christian, ever kind, affectionate and charitable, with no motive disclosed to us that could have caused a total change in her very nature, could have participated in the crimes in question, it is almost impossible to believe. Such belief can only be forced upon a reasonable, unsuspecting, unprejudiced mind by direct and uncontradicted evidence, coming from pure and perfectly unsuspected sources. Have we these? Is the evidence unconfradicted? Are the two witnesses, Weichmann and Lloyd, pure and unsuspected? Of the particulars of their evidence I say nothing.

They will be brought before you by my associates. But this conclusion in regard to these witnesses must have in the minds of the court, and is certainly strongly impressed upon my own, that if the facts which they

themselves state as to their connection and intimacy with Booth and Payne are true, their knowledge of the purpose to commit the crimes and their participation in them is much more satisfactorily established than the alleged knowledge and participation of Mrs. Surratt. As far, gentlemen, as I am concerned, her case is now in your hands.

FREDERICK P. STONE'S ARGUMENT.

Mr. Stone, counsel for Harrold, being necessarily absent, the argument prepared by him was read by Mr. James J. Murphy, one of the official reporters of the court. The counsel contended that the accused did not aid or abet in the murder of the President. There was no evidence to show that this boy conspired with Booth, and others, in aid of the rebellion, and to aid in the overthrow of the Government, as charged. That he aided and abetted, however, in the escape of Booth, there is no doubt, and he must take the consequences. Harrold, by his counsel, altogether denies that he was guilty of the murder of Abraham Lincoln, or that he aided or abetted in such murder as set forth in the specification and charge, but though Booth exercised unlimited control over this miserable boy, body and soul, he found him unfit for deeds of blood and violence, he was cowardly, he was too weak and trifling, but still he could be made useful. He knew some of the lower roads through Maryland, and Booth pursuaded him to act as guide, foot boy and companion. This accounts for their companionship. There was one piece of evidence introduced by the Government and that should be weighed by the commission. It is the declaration of Booth made at the time of his capture, "I declare before my Maker that this man is innocent." Booth knew well enough at the time he made that declaration that his hours, if not his minutes, were numbered. There is no evidence that Harrold counselled Booth to assassinate the President of the United States. The feeble aid that he could render to any enterprise was rendered in accompanying and aiding Booth in his flight, and nothing beyond.

Mr. Stone concluded by saying he trusted the justice of the court would be tempered with mercy.

MR. COX'S ARGUMENT.

Mr. Cox next offered his argument in behalf of Arnold and O'Laughlin. He said he felt assured that the accused was merely the victim of compromising appearances, and were wholly innocent of the great offence. The evidence, he contended, showed that even if these two accused were even beguiled for a moment to listen to the suggestions of this restless schemer Booth, yet there is no blood on their hands, and they are wholly guiltless of all previous knowledge of, and participation in, that "arch-deed of malice, which plunged the nation into mourning."

Mr. Cox said he labored under great difficulties. The crime was laid at Washington. The purlieus of Montreal and Toronto had been searched, the city of New York was examined, the sea had been encompassed, and Western waters and yellow fever hospitals had been visited, and this eccentric career had terminated in a New York Wood. [Laughter.] The testimony has consisted of statements of informers and accomplices, always suspicious, brought from remote places, whose antecedents and character it is impossible for the prisoners to trace. By such people we have been carried to the purlieus of Toronto and Montreal, have skirted the borders of New York and Vermont, touching at Ogdensburg and St. Albans; have passed down the St. Lawrence, and out to sea, inspected our ocean shipping, have visited the fever hospitals of the British isles, and have returned to the prison pen of Andersonville, and seen the camp at Belle Isle and the historical Libby and penetrated the secret councils of Richmond, have thence passed to the hospitals of the West and ascended the Mississippi, and at length terminated this eccentric career in the woods of New York.

Taking up the question of the accused, Mr. Cox said: It is clear that if any connection is shown between Booth on one hand, and O'Laughlin and Arnold on the other, it existed only during the period when the absurd project of capture was agitated, and terminated with that. Their fitful stay in Washington was only between February 10th and March 18th. By Arnold's confession it would appear that he, and, if he is not mistaken, O'Laughlin, attended one meeting about the middle of March, to consider the plan of capture, but so immature was the plan, and so slight his connection with it, that he did not even know the names of the others at the meetings, two in number, besides Booth, Surratt and Atzerodt.

At that meeting the scheme fell through, and he and O'Laughlin immediately afterwards left for Baltimore. Booth told him he might sell the arms he had given him, and in fact it is proved that he gave part of them away shortly after this. His confession as to O'Laughlin proves nothing but his presence at this single meeting. This was the beginning and the end of their connection with Booth in any scheme whatever of a political character, and in this it is evident that he was the arch-contriver and they the dupes. And when they had escaped his influence, although he still evidently clung to his design, and telegraphed, and wrote, and called to see them, it is evident that they refused to heed the voice of the charmer, "charm he never so wisely," From O'Laughlin he received no response at all; from Arnold only the letter offered in evidence. There are expressions in the letter which look to a continued renewal of their relations in the future, but they were employed

to parry his importunities for the present. Certainly all connection ceased from that time.

As Arnold and O'Laughlin had no connection with the conspiracy, Mr. Cox claimed for them an absolute and unqualified acquittal. That the accused were wrong in ever joining the rebellion against their Government no one will deny; that they were wrong in ever listening for a moment, if they ever did, to any proposition from that wicked schemer Booth, inimical to their Government, no one will deny. But it would be to insult the intelligence of this court to waste time in showing that this court are not sitting in judgment on all the errors in the lives of these accused, but to decide the single question whether they are guilty of conspiring to kill and murder the President.

The court adjourned till to-morrow afternoon, when it is expected arguments in the case of Spangler and others will be read.

Early in the day Mrs. Surratt was compelled to be taken from the court-room owing to severe sickness.

ARGUMENTS AND PROCEEDINGS ON TUESDAY, JUNE 20th.

The court met at 2 o'clock, when Mr. Ewing read his argument in favor of the accused, Edward Spangler, reviewing at length all the testimony bearing upon the particular case filed. Spangler, it had been shown, seemed to have a great admiration for Booth, who excelled in all the manly sports, and witnesses had also testified that Spangler's character was that of a peaceful, good-natured, kind and harmless man. Spangler was the drudge for Booth, sometime taking care and feeding the latter's horse. Booth, out of courtesy, had access to the theatre whenever it was open. In calling attention to the relations between Spangler and Booth, Mr. Ewing desired to mark the fact that in all the testimony as to the latter's meetings, associations and acts done and things said, there was not the slightest indication that Spangler ever met Booth except in the theatre, and there was nothing to show that Spangler had any intimation of Booth's purpose, or even innocently helped him to effect it.

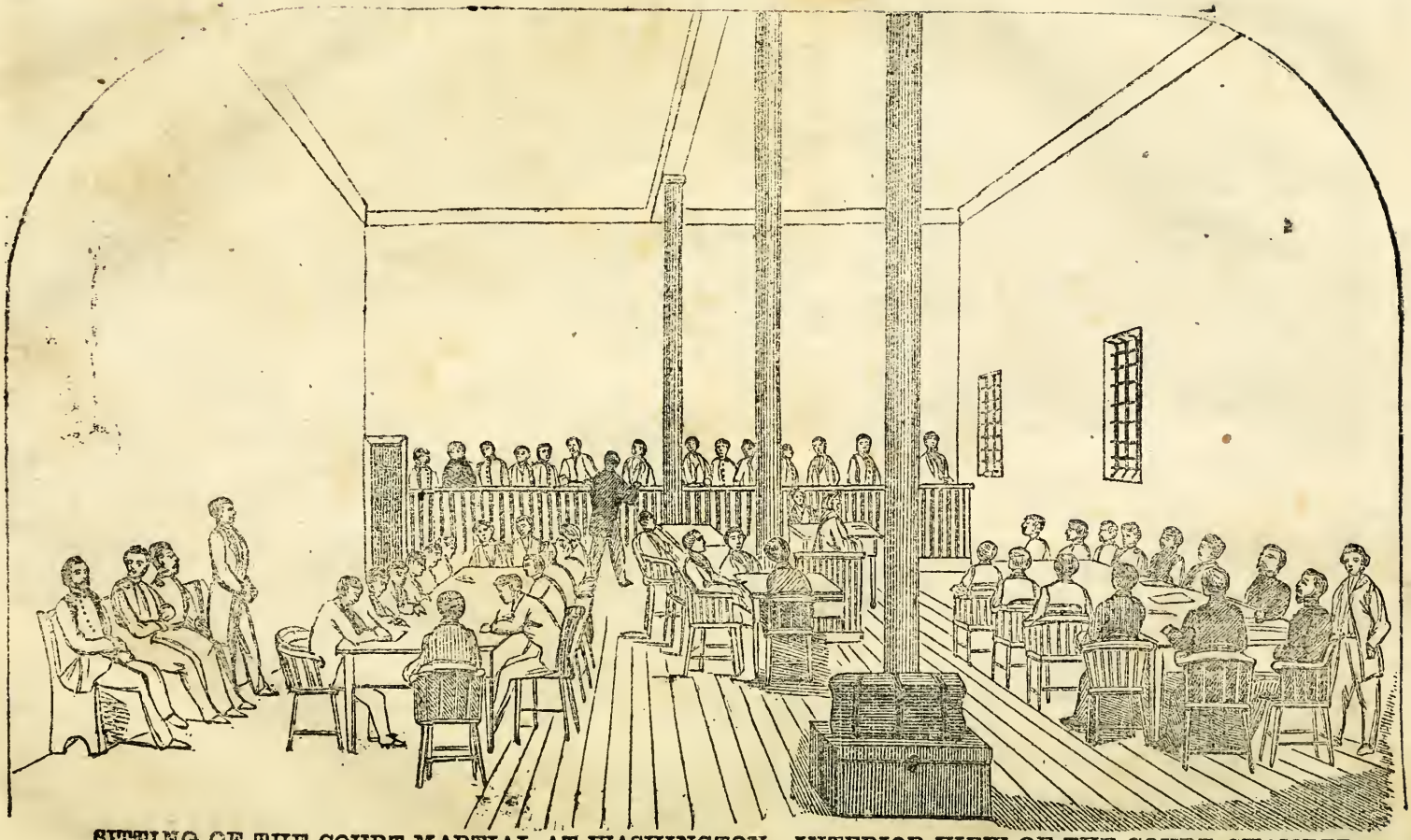
It appeared, from the testimony for the prosecution that there were found in Spangler's carpet-bag a rope, eighty-one feet long, some letter paper and a shirt collar. It was shown that just such ropes were used at the theatre for hoisting borders to scenes, hauling up timber to the top dressing rooms, etc. This rope had been produced by the Government as proof against Spangler, but from the testimony of persons employed in the theatre it appeared that Spangler stole the rope for a crab-line. In the devilish scheme of Booth this rope certainly was not to be used as a lariat or a halter. If it was intended for such a purpose it would have been kept at the theatre, and not at his boarding house in a carpet bag.

Mr. Ewing was not bound to show what Spangler was going to do with the shirt collar and letter paper.

The counsel next examined the testimony in relation to the box occupied by the late President, refuting by a reference to the evidence things which had been said concerning Spangler in that connection. The acts of preparation for the assassination were performed by Booth himself, when he had previously occupied the same box. If Booth had a confederate in Spangler, the boring of the hole in the door and the door brace would have been made with Spangler's carpenter tools. The hole had first been bored with a gimlet and then enlarged with a pen-knife; these acts of preparation were mere drudgery, which Spangler would have been called upon to do if he had been in conspiracy with Booth.

That Booth did both and Spangler neither, showed that Spangler was not in the plot when the preparations were made. Mr. Ewing alluded to the testimony that Booth came to the back of the theatre at nine o'clock on the night of the 14th of April, and said "Ned, you help me all you can? to which Spangler is represented as answering, "Oh, yes!"

This testimony was contradicted by the responsible utility man and other witnesses. But grant that Spangler did make the reply, it must have been in a loud tone to be heard by the witness. As there was no previous testimony showing the slightest act of arrangement of conspiracy on the part of Spangler, the reply of Spangler should be treated as nothing but the reply of a drudge to his superior and not knowing the intent of the question. If Spangler was to have helped Booth, he would have got a substitute to shove the scenes, and after the pistol shot to have opened the door for the escape of the assassin. If Spangler had been in league with Booth, would he, as has been testified, have stood motionless, and leave Booth to the hazard of flight unaided? And would Spangler himself have run for water after he had heard that somebody had been shot? If Booth made use of that language to Spangler and Spangler thus replied, the latter could have known nothing of a criminal purpose. If Spangler had any specific part to play, it was to hold Booth's horse. He failed to do that and remained on the stage. The evidence did not show that he was a party to the crime. Booth came to the house with his horse but once that night, and thus Booth could have had no previous opportunity to communicate with him that night. Weichmann's testimony is unsupported by the other evidence and is inconsistent with it. The fact that Booth knocked the horse holder down on emerging from the theatre shows that Booth, who naturally supposed it was Spangler he was thus



SITTING OF THE COURT-MARTIAL AT WASHINGTON. INTERIOR VIEW OF THE COURT CHAMBER.

striking, had no complicity with Spangler. Booth thought it was Spangler, and not "Peanuts," who held his horse, for Booth had just rushed out from the glare of gaslight into the darkness. Another item was produced to show that Spangler knew of Booth's purposes. Sergeant Dye testified as to seeing a roughly dressed man in front of the theatre with whom Booth whispered before entering the theatre and previous to the assassination of the President. This man, it was said, had a black mustache, but it had been proven that Spangler on that night wore no such mustache. If he had been in front of the theatre with a black mustache, red as his hair is, the visitors to the theatre would have had their attention drawn to his grotesque appearance. Spangler could not have been absent from the stage from twenty-five to thirty minutes past nine to ten minutes past ten without being missed, for it was his business to shove the scenes. He could not have been absent three-quarters of an hour without attracting attention, and an *alibi* was clearly proved; he was not only not in front of the theatre, but, at half-past nine o'clock, was opposite the door at which the murderer escaped, and least able to help the villain's flight. Spangler was on the stage for an hour up to the time of the assassination. Having presented all the evidence bearing upon the acts done and words spoken by Spangler up to that time, Mr. Ewing proceeded to discuss his conduct until his arrest, on the 17th of April, at his boarding-house, where he had lived for five or six months. During the three days and nights intervening between the assassination and the arrest nothing was done by Spangler which did not indicate a conscious sense of innocence.

He felt confident in the assertion that Booth had no accomplice. He did not need any. Booth had played at that theatre, and by courtesy had free admission: therefore he had made his own preparations. The leap from the box to the stage was one which might have been made by any man with safety. Had not his spur caught in the flag Booth would have made the leap with ease. The counsel was confident that Booth needed no help, but some one to hold his horse, which "Peanut John" did; and he opened and shut the door for himself. It appeared from the testimony of Mr. Hess, the manager of a rival theatre, that Booth inquired particularly of him whether Grover's Theatre was to be illuminated, and whether the President was invited on the occasion. From the testimony as to Booth's inquiries it seems clear that the assassination of the President would have been attempted at Grover's Theatre had the President attended that house on the night of the illumination.

Mr. Ewing examined at length other parts of the testimony, and concluded by saying he could see in the evidence no such suspicion as would induce a grand jury to present Spangler for trial, and he believed a candid review of the entire subject would leave in the minds of but very few a reasonable doubt of his innocence.

Colonel Doster stated that he would be prepared to read the argument for Payne to-morrow.

General Howe said that the court had already extended the time for the arguments. If they were all not present to-morrow let the remainder be filed. With these delays they might not get through till autumn.

General Aiken said he was willing to grant all the time the counsel asked to prepare their arguments on subjects of this importance.

General Hunter said the testimony was very voluminous.

Mr. Ewing remarked the labor of preparation was greater than was supposed; it would be out of his power to prepare Dr. Mudd's defence before Friday, as there were two hundred and fifty pages of evidence in that case.

The court voted to grant an extension of time for the preparation of the remaining arguments, and then adjourned till noon to-morrow.

ARGUMENT IN THE DEFENCE OF PAYNE, ATZERODT AND MRS. SURRATT, ON WEDNESDAY, JUNE 21st.

THE ARGUMENT FOR PAYNE.

Court being called to order, Mr. Doster, counsel for Payne and Atzerodt, proceeded to read his argument in behalf of Payne. There are three things, he said, in the case of the prisoner Payne, which are admitted beyond cavil or dispute:

1st. That he is the person who attempted to take the life of the Secretary of State.

2d. That he is not within the medical definition of insanity.

3d. That he believed what he was doing was right and justifiable.

The questions as to his identity and sanity are therefore settled, and among the things of the past, and the sole remaining question is, "How far shall his convictions serve to mitigate his punishment?"

Lewis Payne Powell is the son of Rev. George C. Powell, a Baptist minister, at present supposed to live at Live Oak Station, on the railroad between Jacksonville and Tallahasse, in the State of Florida, and was born in Alabama, in the year 1845. Besides himself, his father had six daughters and two sons. He lived for some time in Worth and Stewart counties, Georgia, and in 1859 removed to Florida. At the breaking out of the war, but four years ago, the prisoner was a lad of sixteen, engaged in superintending his father's plantation and a number of slaves. His two brothers enlisted, and Lewis, though but sixteen years old, enlisted in Captain Stewart's company, in the Second Florida Infantry, commanded by Colonel Ward, and was en-

dered to Richmond. His regiment joined the army of General Lee, and was joined to A. P. Hill's corp. With it he passed through the Peninsular campaign and the battles of Chancelorsville and Antietam. Here he heard that his two brothers had been killed at the battle of Murfreesboro'. Finally, on the 3d of July, 1863, in the charge upon the Federal centre at Gettysburg, he was wounded, taken prisoner and detailed as a nurse in a Pennsylvania hospital. The demoralizing effect of his two year's campaigning as a private in the army, which he entered as a boy of sixteen, is shown. From Gettysburg he was sent to West's Building hospital, Pratt street, Baltimore, and remained until October, 1863, when seeing no hope of exchange, he deserted for his regiment of cavalry at Fauquier. Not being able to get through our lines, he was joined to this arm of the service, and remained in that service until January the 1st, 1865. On that day, as we see by the narrative of Mrs. Grant, he saved the lives of two Union soldiers. About the same time, he, like many other Southern soldiers, began to dispair of the confederacy, came to Alexandria, sold his horse, gave his name as Payne, took the oath of allegiance as a refuge from Fauquier, and went to Baltimore and took a room at the house of Mrs. Branson, the lady he had met at Gettysburg, and resolved to wait for the return of peace. At the beginning of the war Powell one night went to the theatre at Richmond. It was the first play that Powell ever saw, and he was spell-bound with the magical influence of the stage; but was chiefly attracted by the voice and manner of one of the actors, J. Wilkes Booth. Although only a private soldier, Powell considered himself the equal of any man, and after the play was over, sought and gained an introduction to the actor. One day last March, Powell was dragging himself slowly along the street past Barnum's Hotel, in Baltimore, a poor creature, overcome by destiny, when suddenly a familiar voice hailed him. Looking up the steps he saw the face of the Richmond actor. The actor, on his side, expressed astonishment to find Powell in such a plight. Powell answered him in a few words: "Booth, I want food; I am starving." Under other circumstances, Booth might have given him bread; but he was filled with a mighty scheme, for he had just come from Canada and was lying in want of agents. He seized with eagerness the poor man's hunger to wind about him his toils, saying "I will give you as much money as you want, but you must swear to stick by me. It is in the oil business." An hungry stomach is not cautious of oaths, and Powell then swore that fatal oath binding his soul as firmly to Booth as Faust to Mephistopheles, and went in and feasted. Next morning Booth gave him money enough to buy a change of clothing and keep him for a week. Powell now grew anxious to know what plan it was that was to make him rich, but Booth answered evasively, that it was in the "Oil Business." Booth also knew well enough that he had to deal with a very desperate man, but he knew also that any proposition of a guilty character might as yet be rejected. But he soon worked sufficiently upon his victim, and hastened to impart his mysterious plans. The plan was to go to Washington, take a ride with Confederates on horseback to the Soldier's Home, capture the President, and deliver him to the Confederate authorities. On the evening of the 14th of April, at 8 o'clock, Booth told him the hour had struck, placed in his hands the knife, the revolver and the bogus package of medicine, and told him to do his duty, and gave him a horse with directions to meet him at the Anacosta Bridge; and he went and did the deed. Said Mr. Doster: I have asked him why he did it. His only answer is, "Because I believed it my duty." Mr. Doster argued that Payne at the time he committed this deed had no will of his own, but had surrendered his will completely to Booth, under that influence, that complete supremacy of one mind over another, that has gone by various names amongst various nations, and which we call "mesmerism." Booth was a person peculiarly gifted with this unaccountable influence, and the prisoner was further held to Booth by the ties of gratitude, by his oath, by ties of interest, and by ties of sympathy in a common cause.

Mr. Doster urged that this man wishes to die, in order to gain the full crown of martyrdom, and therefore, if we gratify him he will triumph over us; but if we spare him, we will triumph over him. If suffered to live, he will receive the worst punishment—obscurity, and the public will have nothing to admire. He has killed no man, and if he be put to death we shall have the anomaly of the victim surviving the murderer, and under the laws he can be punished only for assault and battery, with intent to kill, and therefore imprisoned.

Mr. Doster spoke of the many good qualities he had found in the prisoner by his intercourse with him—his frank, manly bearing, his disinclination for notoriety, and his indisposition to screen himself from punishment. His only prominent anxiety was lest people should think him a hired assassin or a brute, an aversion to being made a public spectacle of, and a desire to be tried at the hands of his fellow citizens.

THE ARGUMENT FOR ATZERODT.

After an hour's recess taken by the court, Mr. Doster entered upon the argument in behalf of Atzerodt, commencing by offering a statement of his client, as follows:

The prisoner, Atzerodt, submits the following statement to the court:

I am one of a party who agreed to capture

the President of the United States, but I am not one of a party to kill the President of the United States, or any member of the Cabinet, or Gen. Grant or Vice-President Johnson. The first plot, to capture, failed; the second, to kill, I broke away from the moment I heard of it. This is the way it came about. On the evening of the 19th of April, I met Booth and Payne at the Herndon House, in this city, at 8 o'clock. He (Booth) said he himself would take charge of Mr. Lincoln and Gen. Grant. Payne should take Mr. Seward, and I should take Mr. Johnson. I told him I could not do it. That I had gone into the thing to capture, but I was not going to kill. He told me I was a fool, that I would be hung anyhow, and that it was death for every man that backed out, and so we parted. I wandered about the streets until about 2 o'clock in the morning and then went to the Kimmel house, and from there I pawned my pistol at Georgetown and went to my cousin's house in Montgomery county, where I was arrested on the 19th following. After I was arrested, I told Provost-Marshal Wells and Provost-Marshal McPhail the whole story. I also told it to Capt. Monroe, and Col. Wells told me if I pointed out the way Booth had gone, I would be reprieved, and so I told him I thought he had gone down Charles county, in order to cross the Potomac. The arms which were found in my room at the Kirkwood house, and a black coat, do not belong to me. On the afternoon of the 14th of April, Harrold called to see me, and left the coat there. It is his coat, and all in it belongs to him, as you can see by the handkerchief marked with his initials and with the name of his sister, Mrs. Naylor. Now I will state how I passed the whole of the evening of the 14th of April. In the afternoon, about 2 o'clock, I went to Helefer's stable, on Eighth street near D, and hired a dark bay mare, and rode into the country for pleasure, and on my return, put her up at Naylor's stable. The dark bay mare which I had kept at Naylor's before, on or about the 3d of April, belonged to Booth, and also the saddle and bridle, and I had charge of him to sell him; and I do not know what became of him. At about six in the evening I went to Naylor's again, and took out the mare, rode out for an hour, and returned her to Naylor's again. It was then nearly eight o'clock, and I told him to keep the mare ready at 10 o'clock, in order to return her to the man I hired her from. From there I went to the Herndon House. Booth sent a message to Oyster Bay, where I was, saying he wanted to see me, and I went. Booth wanted me to murder Mr. Johnson. I refused. I then went to the Oyster Bay, in the avenue, above Twelfth street, and whiled away the time until 10. At 10 I got the mare, and having taken a drink with the hostler, galloped about town, and went to the Kimmell House. From there I rode down to the depot, and returned with my horse, riding up Pennsylvania avenue to Kelcher's. From Kelcher's I went down to the Navy Yard, to get a room with Wash. Briscoe. He had none, and by the time I got back to the Kimmell House it was near 2. The man Thomas was a stranger I met in the street. The next morning, as stated, I went to my cousin Richter's, in Montgomery county.

GEORGE A. ATZERODT.

Mr. Doster then began his argument. He first commented upon all the testimony offered by the Government against Atzerodt; then he commented upon the testimony showing that Atzerodt made no attempt to escape from Western Maryland, where he was arrested, and that he was a coward. Mr. Doster said the prisoner submits that the testimony adduced by the prosecution fails utterly to support the specification, but corroborates the prisoner's own statement in every particular. Mr. Doster then compared the testimony with the specification and the prisoner's statement.

He laid great stress upon the testimony, proving Atzerodt a coward, and considered this point at great length. He said, there is only one assumption that will make every thing agree. Atzerodt backed out; he arrived here; he liked the money, but did not like to be hung. He did not hear of the murder before that evening at eight o'clock, or he would long before have hid himself. When he did hear it, he had firmness enough to object. Coward conscience came to his rescue. But Booth threatened to kill, and he knew well enough he was the man to close the mouth of any one who troubled him; so he went off, driven like a poor, frail being between irresolution and fear; took drinks; feigned to be doing his part; talked valiantly while the rum was in his throat; promised gloriously; galloped round fiercely; looked daggers; and when the hour struck, did nothing and ran away. The specification charged that about 10.15 he was lying in wait to murder, etc., and the counsel contends that all the circumstances can be accounted for. The prisoner had opportunity to lie in wait, and as there was no proof that he did, he should be considered guiltless of the attempt to murder. If the theory of his attempting to murder be adopted, denial meets it at every point. He tried to become a hero, but was only a coach-maker, absolutely without courage. The plain, unvarnished statement is, that during the latter part of February, John Surratt and Booth wanted a man who understood boating, and could both get a boat and ferry a party over the Potomac on a capture. Surratt knew Atzerodt, and under the influence of great promises of a fortune, he consented to furnish the boat and do the ferrying over. This plan was attempted on the 18th of March, and failed. Booth, however, kept his subordinates uninformed of his plans, except that it was understood the President was to

be captured. Meanwhile, everybody was waiting for Booth.

On the 14th, Booth unfolded his plans at the Herndon house, and Atzerodt refused; on the 19th, he was arrested. This ends this history, which might have become a tragedy, but which the prisoner has turned to a farce. He was riding round from bar-room to bar-room while Payne was at Seward's, and it is plain he was drunk. After his peregrinations, to charge him with lying in wait, etc., is paying him an undeserved compliment. There is not a particle of the specification proved, but the immediate contrary.

During the whole of the evening, so far as the evidence throws any light on his conduct, instead of lying in wait near to the Vice President, he was standing at the different bars from the Union house to the Kimmell house, with the intent then and there unlawfully and maliciously to make himself drunk. Booth employed him for an emergency. He was perfectly competent to perform in the plan to capture, to furnish the boat and to carry the party across the Potomac. For participating in the President's murder, he could never have been intended. Booth was, as his conduct shows, anxious to carry off the glory of the thing. He remarked that he wanted "no botching with General Grant." He must have known, when he told Atzerodt to take charge of the Vice-President, that he had not the courage, and did not care particularly whether he accomplished it or not. He is guilty solely of what he confesses in conspiring to abduct the President, and of that he can be found guilty only under a new indictment.

THE ARGUMENT FOR MRS. SURRATT.

Mr. Aikin read the argument in behalf of Mrs. Surratt, commencing as follows:

For the lawyer, as well as for the soldier, there is an equally pleasant duty, an equally imperative command. That duty is to shelter from injustice and wrong the innocent, to protect the weak from oppression, and to rally at all times and on all occasions, when necessity demands it, to the special defence of those whom nature, custom or circumstances may have placed in dependence upon our strength, honor and cherishing regard. That command emanates and reaches each class from the same authoritative and Omnipotent source. It comes from a superior whose right to command none dare to question and none dare to disobey. In this command there is nothing of that *lex talionis* which nearly two thousand years ago nailed to the cross its Divine author. "Therefore all things whatsoever ye would that men should do to you, do ye even so to them, for this is the law and the prophets." God has not only given us life, but he has filled the world with every thing to make life desirable, and when we sit down to determine the taking away of that which we did not give, and which when once taken we cannot restore, we consider a subject of the most solemn within the range of human thought and human action. Profoundly impressed with the innocence of our client, we enter upon this last duty in her case with the heartfelt prayer that her honorable judges may enjoy the satisfaction of not having a single doubt left on their minds in granting her an acquittal, either as to the testimony affecting her or by the surrounding circumstances of the case.

After alluding to the argument of the Hon. Reverdy Johnson, whom he styled the "grande decus columenque" of his profession, Mr. Aiken discussed with much particularity the plea of reasonable doubt, and in applying the rules which obtain in civil courts to courts-martial, and that they must be governed in the acceptance and analysis precisely by these reasonable rules of evidence, that time and experience, *ab antico*, surviving many ages of judicial wisdom, have unalterably fixed as guides in the administration of the criminal law. He here quoted many authorities sustaining his position. He claimed that if Mrs. Surratt could be found guilty in a civil court, she might be convicted here.

He then stated that, for private and public reasons, it was highly desirable that the proceedings of this court should be sustained by sufficient evidence. If they were, the public would overlook any irregularity that might be supposed to exist. He stated that the case was wonderfully barren of even circumstantial evidence against Mrs. Surratt, but all that was circumstantial by no means connected her with guilty knowledge or guilty intent. He then inquired what these facts were, the character of the evidence in support of them and the witnesses, and whether they were consistent with a reasonable theory by which guilt is established. The character, scope and tone of the argument, can be gathered from the remarks near the close, viz: A mother and a son, associated in crime, and such a crime as this half of the civilized world never saw matched in all its dreadful bearings! Our judgments can have hardly recovered their unprejudiced tone since the shock of the late horrors, if we can contemplate with credulity such a picture, conjured by the unjust spirits of indiscriminate accusation and revenge—a crime which, in private misery, would have driven even the *stri* painted breast of a Medici, a Borgia, or a Madame Bocarmi to wild confusion before its accomplishment, and daunted even that soul If all the recorded world, the most eager for novelty in license, and most unshrinking in sin—the indurated soul of Christiana of Sweden—such a crime as profoundest plotters within padded walls would scarcely dare whisper—the words forming the expression of which, spoken aloud in the upper air, would

convert all listening boughs to aspens, and all glad sounds of nature to shuddering wails—and this made known, even surmised, to a woman, a "mater familias," the good genius, the "placens uxor" of a home where children had gathered all the influences of purity and the reminiscences of innocence—where religion watched, and the church was minister and watcher—who were circumstantial evidence, strong and conclusive, such as only time and the slow-weaving fates could elucidate and deny—who will believe, when the mists of uncertainty which cloud the present shall have dissolved, that a woman, born and bred in respectability and competence; a Christian mother, and a citizen who never offended the laws of civil propriety; whose unfailing attention to the most sacred duties of life has won for her the name of "a proper Christian matron;" whose hearth was ever warmed by charity, whose door unbarred to the poor, and whose penates have never cause to veil their faces;—who will believe, that she could so suddenly and fully have learned the intricate arts of sin? And Mr. Aiken closed with the following remark: "Let not this first State tribunal in our country's history which involves a woman's name, be blazoned before the world with the harsh hints of intolerance which permits injustice, but as the benignant heart and kindly-judging mind of the world-lamented victim of a crime which would, in its ramifications of woe, aroused so many fates, would himself have counselled you. 'Let the heralds of peace and charity, with their wool-bound slaves, follow the fasces and axes of judgment, and, without the sacrifice of any innocent sphigenia, let the ship-of-state launch with dignity of unstained sails into the unruffled sea of union and prosperity.'"

The court adjourned over till Friday.

PROCEEDINGS ON FRIDAY, JUNE 23d.

George B. Hutchinson, a witness called by the Government, testified that he was an enlisted man, during the recent war, for a year and a half; he saw Clement C. Clay on or about the 12th or 13th of February last, at the Queen's Hotel, Toronto; he did not think he was mistaken in seeing Clay then and there; he also saw Sanders, Beverly Tucker, and others, at Montreal, on the 16th or 17th of the same month; the witness was present at a conversation at the St. Lawrence Hall, Montreal, on the 2d or 3d of June, when the present trial was the subject discussed by Dr. Merritt, Beverly Tucker, General Carroll, of Tennessee, and ex-Governor Westcott, of Florida; Beverly Tucker said he had burnt all the letters, for fear the Yankee sons of—— would steal them; the witness had knowledge that Dr. Merritt enjoyed the confidence of Tucker and the others.

MR. EWING'S ARGUMENT.

Mr. Ewing then proceeded to read the argument in the prisoner Arnold's case. He remarked that the evidence was not voluminous, and it was all in harmony as to the main facts. Mr. Horner, the detective, said that Arnold, after his arrest, gave an account of a meeting held at the Lichan House, in Washington, the object of which was to capture the President and take him South, for the purpose of compelling the Government to an exchange of prisoners. After announcing his intention of having nothing to do with it, if not performed within the week, Arnold withdrew from it, when Booth said for this he ought to be shot. Booth had previously furnished the conspirators with arms, and so perfectly satisfied did he become that Arnold had withdrawn from the plot, that he told Arnold to dispose of the arms placed in the prisoners' hands just as he pleased. This statement of Arnold was truthful and ingenuous, and all the evidence corroborated and conformed to it. In Booth's trunk was found a letter from Arnold, dated from Hookstown, March 27th, in reply to one from Booth, who had endeavored to reclaim and again enlist him in his scheme. This letter showed that the rupture between them was complete—never to be healed. During Arnold's stay at Mrs. Van Tyne's, in this city, it was not denied that he was engaged in the plot for the capture of President Lincoln. Arnold remained in Maryland from the 21st to the 31st of March, when he proceeded to Fortress Monroe for the purpose of entering upon a situation as clerk with Mr. Wharton. About the 20th of March occurred the meeting which resulted in the quarrel of the accused with Booth, when Arnold gave up his room at Mrs. Van Tyne's and never saw Booth afterward.

The evidence established only that at one time Arnold was a party to a plot to capture or abduct the President. If on the 14th of April the President had been abducted instead of assassinated, Arnold could not be punished, because he had withdrawn from the conspiracy, as the prisoner countermanded the intention to abduct, and altogether withdrew from it. There was no crime committed, and as a consequence no punishment should follow.

Mr. Ewing quoted from various legal authorities, to show that after Arnold had terminated his association with the conspirators, he was not responsible for what was done afterwards. No one act of the conspirators could affect him. There was not the remotest testimony to connect Arnold with the commission of the murderous deed. He repeated that the original plot, in which Arnold bore a part, was abandoned, and an entirely new one, with which Arnold was in no way connected, was substituted. Although he had conspired with the same parties for a different purpose,

he certainly was not responsible with the wicked men who did the wicked deed of murder. The prisoner, the counsel argued, could not be an accessory before the fact of a crime he did not know was to be committed. At the time of the assassination Arnold was not in Washington. He was not nearer the scene than Fortress Monroe; nor did he give any guilty aid or participation to the murder after the crime had been committed.

Mr. Ewing addressed the court upon the subject of jurisdiction, arguing that neither the Constitution of the United States, nor the laws passed under it, gives them power to try the prisoners of the crime with which they are charged. As there was no constitutional or legal provision for trial on such a count, it must have been authorized by some mandate from the Executive which the Constitution prohibits. If his clients were to be tried for treason and murder, it must be proved that they aided in or abetted the acts, for either of them on conviction was punishable with death. The Judge-Advocate would not say on what law and authority he rested the conviction of these parties, and for what crime. The civil courts were open without impediment for impartial trial, etc., hence in the absence of other considerations there was no necessity for this trial before a military court. If such a precedent be set, we may have fastened upon us a military despotism. It might be this arraignment before a military court was more convenient, and conviction more certain than before a civil tribunal. The Judge-Advocate had said that the parties were tried under the common military law. This was a quiddity, and might make a fictitious crime, and attach an arbitrary punishment, and who may gainsay it? Our rules and articles of war are familiar to us all. We never heard of the common laws of war having jurisdiction not conferred by express enactment or constitutional grant. If the laws govern, he (Mr. Ewing) felt satisfied that his clients were safe. One of them, Dr. Mudd, had committed no crime known to the laws. He could not be charged with treason, nor as aiding and abetting in the murder of the President, for at the time of the tragedy, Dr. Mudd was at his residence, thirty miles from the place of the crime. He certainly could not be charged with the commission of the overt act. There were not two witnesses to show it, but there was abundant evidence to show he did not commit the overt act. Dr. Mudd never, by himself or with others, levied war against the United States or gave aid and comfort to the enemy.

Mr. Ewing then proceeded to comment on the evidence, claiming that there was nothing which in the remotest degree connected Dr. Mudd with the conspiracy. He ventured to say that rarely, in the annals of the civil trials has the life of accused been assailed by so much false testimony as had been exhibited in this case, and rarely has it been the good fortune of an innocent man to so confute and overwhelm his false accusers by a preponderance of undisputed truth. There was no reliable evidence to show that Dr. Mudd met Booth more than twice, and that was last November, in Charles county, on a mere matter of trade. He had never met Booth in this city. The counsel then reviewed the evidence relative to Dr. Mudd having set Booth's leg, and other events in that connection, arguing that from all this there was nothing to lead to a conclusion unfavorable to the accused. Dr. Mudd voluntarily, not on compulsion, gave information concerning the route by which Booth, with Harrold, had escaped, and, instead of thanking him for this, as a good and loyal citizen, an effort was made to punish him. Truly, the ways of military justice, like those of Providence, are inscrutable and past finding out. In the course of his defence, Mr. Ewing said that, in all the writings which had been seized, there is not a scratch of a pen implicating Dr. Mudd; nor is there any thing whatever to show that he had the least intimation or knowledge either of assassination or of abduction. He concluded that his client could not be punished, either as a principal or as an accessory before the fact, for the evidence fails to show either knowledge, or intimation, or suspicion to commit the crime. If the prisoner was to be held responsible at all, it was as an accessory after the fact, and beyond all controversy there was no proof on this point.

All the arguments for the accused having been read, Associate Judge-Advocate Bingham said, that on Tuesday next he would be ready with so much of his summing up as touches the question of the jurisdiction of the court, and he hoped by the next day to deliver the conclusion of his argument.

The court then adjourned until Tuesday morning at eleven o'clock.

PROCEEDINGS OF TUESDAY, JUNE 27th.

CONCLUSION OF TESTIMONY FOR THE GOVERNMENT.

The court met at 11 o'clock, when Judge Advocate-General Holt recalled Sandford Conover, alias J. W. Wallace as a witness for the Government.

Judge Holt said he held in his hand a volume containing the judicial proceedings in the case of the St. Albans' raid, and asked the witness whether his evidence therein was truthfully reported. The witness said the testimony to which General Holt had especially referred was partly his, but associated with that of another person named Wallace.

Q. Do you remember how many persons named Wallace gave testimony on that trial? A. There were three so far as I know: William Pope Wallace, J. Watson Wallace, and J. Wallace; what was read from the work just now was the report of the Montreal *Tele-*

BOSTON CORBETT—THE EXECUTIONER OF BOOTH.

graph, printed from the type of that newspaper; the report which appeared in the Montreal *Witness* was correct. This was read as follows:

"James Watson Wallace said: I reside at present in this city and have been here since October; I formerly resided in the Confederate States; I know James A. Seddon; he occupied the position of Secretary of War; I should say the signatures to the papers M. N, and O, are those of the said Seddon; I have on several occasions seen the signature of James A. Seddon and have seen him on several occasions write his name. He has signed documents in my presence, and handed them to me after signing; I never belonged to the Confederate army, but have seen many commissions issued by the Confederate Government; the commission of Lieutenant Young, marked M, is in the usual form; the army commissions are always signed by the Secretary of War; I have never seen a commission with the name of the President or with the seal of the Government; the Confederate States, at the time I left the country, had no seal; one had been designed, but not prepared."

The witness remarked that the above was substantially what he did say; it was clipped either from the Montreal *Witness* or the *Herald*.

Q. State whether, after you gave your testimony in this court, you visited Montreal. A. I left here perhaps the same day.

Q. Whom did you meet there of those spoken of as refugees? A. I met Tucker, Carroll, Dr. Pallen, ex-Governor Wescott, George Sanders, Lewis Sanders, his son, and a number of others; I had a free conversation with some of them, especially with Tucker and Sanders.

Q. What did Tucker say, so far as the purpose of those men was concerned? A. They had not the slightest idea that I had testified before this Commission, and received me with great cordiality; the subject of this trial was generally discussed; Tucker, after denouncing Secretary Stanton and President Johnson as scoundrels, spoke of Judge Holt as a bloodthirsty old villain; he said they must protect themselves by a guard at present; "but, by the Eternal, a day of reckoning will come, and they would have a long account to settle." Sanders did not make such violent threats as Tucker did; William S. Cleary, whom he also met, made similar violent threats; he said, that Beale would have been pardoned by the President had it not been for Judge Holt; he also said blood should follow blood; he reminded me of what he had formerly remarked concerning President Lincoln, "That retributive justice had come, and the assassination of the President was the beginning of it."

Q. After giving your testimony here did you not go to Canada for me? A. I did, to get a certified copy of the record; at Montreal I met these conspirators; I had not been there long when they discovered that my testimony had been published; I received a message from Sanders, Tucker, Carroll, and O'Donnell, a Virginian, sometimes called Mc-Donnell.

Q. The man who boasted of setting fire to houses in New York? A. He so boasted: I went into the saloon to wait until the public offices were opened; while sitting there about ten minutes a dozen rebels surrounded me; they accused me of having betrayed their secrets; not knowing at the time that my testimony had been published I denied it; they said if I would give them a letter to that effect it would be well; just as I was about to get away Beverley Tucker came in; he said a mere letter would not do, because I had testified before the court, therefore I must give some paper under oath to make my denial sufficiently strong; about a dozen of these men assailed me in a furious manner; O'Donnell took out his pistol and said unless I did so I should never leave the room alive; at last Sanders said, "Wallace, you see what kind of hands you are in;" I at length consented; it was understood that I was to prepare the paper in my own way; I intended, however, not to prepare the paper but to escape from them at the most convenient opportunity; Mr. Kerr was then sent for to prepare the paper; two of Morgan's men were there; a pistol was again drawn on me; Kerr came and the affidavit was prepared, and I signed it and went through the ceremony of an oath.

Q. Did you know that Kerr had knowledge of these menaces? A. It must have so appeared to him, for Tucker said if I did not sign the paper I should never leave the town alive, and that they would follow me to ——.

Q. Did that paper appear in the *Telegraph*, and was it afterwards copied into the New York *World*? A. It did (the paper was read;) it appeared in the Montreal *Evening Telegraph*, of June 10, and is to the effect that if President Johnson will send him (James W. Wallace) a safe conduct to go to Washington and to return to Montreal, he would proceed hither and go before the Military Court and make proffer of himself in order that they may see whether he was the same Sandford Conover who swore as stated; this is dated June 8th, 1865, and is signed James W. Wallace; to this the affidavit before referred to is appended, namely:

"I am the same James W. Wallace who gave evidence on the subject of the St. Alban's raid, which evidence appears in page 212 of the printed report of the case; I am a native of Loudon county, Virginia; I resided in Montreal in October; I have seen and examined the report of what is called the suppressed evidence before the court-martial now being holden at Washington on Mrs. Surratt, Payne and others, and I have looked carefully through the report of the evidence in the New York papers of a person calling himself

Sandford Conover, who referred to the fact that whilst in Montreal he went by the name of James Watson Wallace, and gave evidence in the St. Alban's raid investigation; that said Conover evidently personated me before the said court-martial; that I never gave any testimony whatsoever before the said court-martial at Washington city; that I never had knowledge of John Wilkes Booth, except seeing him on the stage, and did not know he was in Montreal until I saw it published after the murder of President Lincoln; that I never was a correspondent of the New York *Tribune;* that I never went under the name of Sandford Conover; that I never had any confidential conversation with George N. Sanders, Beverly Tucker, Hon. Jacob Thompson, General Carroll, of Tennessee, Dr. M. N. Pallen, or any of the others therein mentioned; that my acquaintance with every one of these gentlemen was slight, and in fine, I have no hesitation in stating that the evidence of the said Conover personating me is false, untrue, and unfounded in fact, and is, from beginning to end, a tissue of falsehoods.

"I have made this deposition voluntarily, and in justice to my own character and name.

(Signed) "J. Watson Wallace."

This was sworn to before G. Smith, Justice of the Peace, at Montreal, on the 8th of June, inst.: Alfred Terry testified that Wallace subscribed to the paper of his own free will, etc.

By Judge-Advocate Holt.—Q. I understand this is the paper sworn and subscribed to by you under the circumstances which you have detailed, with pistols pointed at your face, and that the statements in this paper are false. A. Yes, sir: I never heard of Alfred Terry, who said I swore to it voluntarily; the advertisement appended to the deposition, and which is as follows, was also induced by the same threats:

"Five hundred dollars reward will be given for the arrest, so that I can bring to punishment in Canada, the infamous and perjured scoundrel who recently personated me under the name of Sandford Conover, and deposed to a tissue of falsehoods before the Military Commission at Washington.

(Signed) "J. W. Wallace."

Q. You have stated that you were never in the Confederate army: what did you mean? A. I meant that I never served as a soldier after I was conscripted; I was detailed as a clerk in the rebel War Department.

By Judge Holt.—Q. Was any attempt made by those men to detain you in Canada? A. I believe so, by friends of theirs, and I was relieved through the influence of General Dix.

TESTIMONY OF NATHAN AUSER.

By Judge Holt.—Witness said he had known Sanford Conover for eight or ten years; his character for integrity was good; recently witness had accompanied Conover to Montreal, and was present at the interview with Tucker and Sanders; after they went into O'Donnell's room, Mr. Cameron came there with a paper containing an account of Conover's testimony; Conover had the paper shown to him, but denied he had so testified; he was told he must sign a writing to that effect or he should not leave the room alive; they would shoot him like a dog; they all went into the St. Lawrence Hall, but would not let the witness follow them; there were twelve or fifteen persons in the party, including Sanders, Tucker, O'Donnell, Carroll, Dr. Pallen and Cameron. The witness said he did not see any weapons on their persons.

TESTIMONY OF JOHN CANTLY.

By Judge Holt.—I reside at Selma, Alabama, and am a printer in the office of the Selma *Dispatch*.

Judge Holt said, I will read the following which purports to have been clipped from that newspaper, namely:—"A million dollars wanted to have peace by the 1st of March. If the citizens of the Southern Confederacy will furnish me with the cash or good securities for the sum of $1,000,000, I will cause the lives of Abraham Lincoln, William H. Seward, and Andrew Johnson to be taken by the 1st of March next. This will give us peace and satisfy the world that cruel tyrants cannot live in a land of liberty. If this is not accomplished nothing will be claimed beyond the sum of $50,000 in advance, which is supposed to be necessary to reach and slaughter the three villains. I will give, myself, $1000 towards the patriotic purpose. Every one wishing to contribute will address 'X.' Cahawba, Alabama, December 1st, 1864."

Q. Will you state whether this advertisement was published in the Selma *Dispatch* in December, 1864? A. As far as I recollect it was in November, and was published four or five times; I saw the manuscript, which was in the handwriting of G. W. Gale, of Cahawba, Alabama; his name was signed at the bottom of the sheet simply to indicate the author and who was responsible for it; the *Dispatch* had a circulation of eight hundred copies, and exchanged with the Richmond papers; Gale is a lawyer of considerable reputation, and is distinguished for his extreme views on the subject of slavery; I never saw Gale before his arrest.

Watkins D. Graves, also a printer, who had been employed in the Selma *Dispatch* office, remembered to have seen the advertisement signed X.: it was in Mr. Gale's handwriting which the witness had frequently seen.

Dr. Merritt was recalled for the Government with reference to a statement made by Mr. Hutchinson that he overheard a conversation on the 2d of June. The Doctor said on that day he saw General Carroll at St. Lawrence Hall, and introduced himself as Dr. Merritt, of Memphis. As there was a large

family of that name at Memphis, from which vicinity General Carroll came, he expressed to the witness great gratification at meeting him.

General Carroll introduced him to Tucker and others as Dr. Merritt. On Tuesday, the 6th of June, the testimony was published in Canada, when Tucker said they were perfectly posted as to every thing on this trial, and Tucker said they had burned the papers from the Confederate Government for fear some Yankee would steal them for evidence. Ex-Governor Westcott was present during the interview with witness, but he did not hear the latter utter any disloyal sentiments, although it must be inferred he was playing into his friends' hands.

By General Wallace.—Q. By whom were they being posted? A. He said, we have friends in court; who, I don't know; I did not take for granted it was any member of the court. (Laughter.)

Judge Holt said the Government was now through with its testimony.

Assistant Judge-Advocate Bingham then delivered his argument.

ARGUMENT OF JOHN A. BINGHAM,

SPECIAL JUDGE-ADVOCATE.

MAY IT PLEASE THE COURT: The conspiracy charged and specified, and the acts alleged to have been committed, constitute a crime, the atrocity of which has sent a shudder through the civilized world. All that was agreed upon and attempted by the alleged inciters and instigators of this crime constitutes a combination of atrocities with scarcely a parallel. Whether the prisoners are guilty of the conspiracy and the acts alleged to have been done in pursuance thereof, is a question the determination of which rests solely with this honorable court.

In presenting my views upon the questions of law raised by the several counsel for the defence, and also on the testimony, I desire to be just, for the issue joined involves the highest interests of the accused, and, in my judgment, the highest interests of the whole people of the United States.

It is a matter of great moment to all the people of this country that the prisoners at your bar be lawfully tried and lawfully convicted or acquitted. A wrongful and illegal conviction, or a wrongful and illegal acquittal upon this dread issue would impair somewhat the security of every man's life, and shake the stability of the republic.

The crime charged and specified upon your record is not simply the crime of murdering a human being, but it is the crime of killing and murdering on the 14th day of April, A. D. 1865, within the Military Department of Washington, and the intrenched lines thereof Abraham Lincoln, then President of the United States, and Commander-in-Chief of the Army and Navy thereof; and then and there assaulting, with intent to kill and murder, William H. Seward, then Secretary of State of the United States; and then and there lying in wait to kill and murder Andrew Johnson, then Vice-President of the United States, and Ulysses S. Grant, then Lieutenant-General, and in command of the armies of the United States, in pursuance of a treasonable conspiracy entered into by the accused with one John Wilkes Booth and John H. Surratt, upon the instigation of Jefferson Davis, Jacob Thompson, and George N. Sanders and others, with intent thereby to aid the existing rebellion and subvert the Constitution and laws of the United States.

It was a conspiracy—the final effort of a four years' rebellion, a conspiracy formed at the instigation of the chiefs in that rebellion. That is what the accused are on trial for.

THE COURT AND ITS JURISDICTION.

The President of the United States, in the discharge of his duty as Commander-in-Chief of the Army, and by virtue of the power vested in him by the Constitution and laws of the United States, has constituted you a military court to hear and determine the issue joined against the accused, and has constituted you a court for no other purpose whatever. To this charge and specification the defendants have pleaded, first, that this court has no jurisdiction in the premises; and, second, not guilty. As the court has already overruled the plea to the jurisdiction, it would be passed over in silence by me but for the fact, that a grave and elaborate argument has been made by counsel for the accused, not only to show the want of jurisdiction, but to arraign, the President of the United States before the country and the world as a usurper of power over the lives and the liberties of the prisoners. Denying the authority of the President to constitute this commission is an averment that this tribunal is not a court of justice, has no legal existence, and, therefore, no power to hear and determine the issue joined. The learned counsel for the accused, when they make this averment by way of argument, owe it to themselves and to their country to show how the President could otherwise lawfully and efficiently discharge the duty enjoined upon him by his oath to protect, preserve and defend the Constitution of the United States, and to take care that the laws be faithfully executed.

THE CIVIL COURTS NOT OPEN.

The civil courts, say the counsel, are open in the District. I answer, they are closed throughout half the Republic, and were only open in this District on the day of this confederation and conspiracy, on the day of the traitorous assassination of your President, and are only open at this hour by force of the bayonet. Does any man suppose that if the

military forces which garrison the intrenchments of your capital, fifty thousand strong, were all withdrawn, the rebel bands who this day infest the mountain passes in your vicinity would allow this court, or any court, to remain open in this District for the trial of these their confederates, or would permit your executive officers to discharge the trust committed to them, for twenty-four hours.

Booth himself was not and could not be arrested by civil process, but was pursued and slain by military power. Was that an act of usurpation? Yet it can only be justified by the argument which fully justifies the constitution of this military court.

REVERDY JOHNSON'S EXTRAORDINARY ARGUMENT.

But the argument of Mr. Johnson affirms that the President, under the Constitution and laws of the United States, was not only not authorized, but absolutely forbidden to constitute this court for the trial of the accused, and, therefore, the act of the President is void, and the gentlemen who compose the tribunal without judicial authority or power, and are not in fact or in law a court. But the court is a military commission and bar, at any rate, no power, as a court, to declare the authority by which it was constituted null and void, and the act of the President a mere nullity, a usurpation. Has it been shown by the learned gentleman, who demands that this court shall so decide, that officers of the army may lawfully and constitutionally question in this manner the orders of their Commander-in-Chief, disobey, set them aside, and declare them a nullity and a usurpation? Even if it be conceded that the officers thus detailed by order of the Commander-in-Chief may question and utterly disregard his order and set aside his authority, is it possible, in the nature of things, that any body of men, constituted and qualified as a tribunal of justice, can sit in judgment upon the proposition that they are not a court for any purpose, and finally decide judicially, as a court, that the government which appointed them was without authority?

IS A COURT A COURT

So with the question presented in this remarkable argument for the defence; before this court can enter upon the inquiry of the want of authority in the President to constitute them a court, they must take for granted and decide the very point in issue, that the President had the authority, and that they are in law and in fact a judicial tribunal; and having assumed this, they are gravely asked, as such judicial tribunal, to finally and solemnly decide and declare that they are not in fact or in law a judicial tribunal, but a mere nullity and nonentity. A most lame and impotent conclusion! The Supreme Court of the United States has decided explicitly that no court can enter upon such an inquiry, for if it should come to the conclusion that the Government under which it acted had been put aside, it would cease to be a court, and be *incapable* of pronouncing a judicial decision upon the question it undertook to try.

The argument of Mr. Johnson is

NOT A PLEA TO THE JURISDICTION.

The absurdity of the proposition so elaborately urged upon the consideration of this court cannot be saved from the ridicule and contempt of sensible men by the pretence that the court is not asked judicially to decide that it is not a court, but only that it has no jurisdiction; for it is a fact not to be denied that the whole argument for the defence on this point is that the President had not the lawful authority to issue the order by which alone this court is constituted, and that the order for its creation is null and void.

Gentlemen might as well ask the Supreme Court of the United States upon a plea to the jurisdiction to decide as a court that the President had no lawful authority to nominate the judges thereof severally to the Senate, and that the Senate had no lawful authority to advise and consent to their appointment, as to ask this court to decide as a court that the order of the President of the United States constituting it a tribunal for the sole purpose of this trial was not only without authority of law, but against and in violation of law. If this court is not a lawful tribunal, it has no existence, and can no more speak as a court than the dead, much less pronounce the judgment required at its hands—that it is not a court, and that the President of the United States, in constituting it such to try the question upon the charge and specification preferred, has transcended his authority, and violated his oath of office.

MILITARY COURTS, AS SUCH, PERFECTLY CONSTITUTIONAL.

To the argument that the Constitution confides the judicial power to the Supreme Court, and inferior courts created by Congress, it is a sufficient answer to say that the power of this Government to try and punish military offences by military tribunals is no part of the "judicial power of the United States," under the 3d article of the Constitution, but a power conferred by the 8th section of the 1st article, and so it has been ruled by the Supreme Court in Dyres agt. Hoover, 20, Howard, 78. If this power is so conferred by the 8th section, a military court authorized by Congress, and constituted as this has been, to try all persons for military crimes in time of war, though not exercising "the judicial power" provided for in the 3d article, is nevertheless a court as constitutional as the Supreme Court itself. The gentleman admits this to the extent of the trial,

by court-martial, of persons in the military or naval service, and by admitting it, he gives up the point. There is no *express* grant for any such tribunal, and the power to establish such a court, therefore, is *implied* from the provisions of the 8th section, 1st article, that "Congress shall have power to provide and maintain a navy," and also "to make rules for the government of the land and naval forces." From these grants the Supreme Court infer the power to establish court-martials, and from the grants in the same 8th section, as I shall notice hereafter, that "Congress shall have power to declare war," and "to pass all laws necessary and proper to carry this and all other powers into effect," it is necessarily implied that in time of war Congress may authorize military commissions, to try all crimes committed in aid of the public enemy; as such tribunals are *necessary* to give effect to the power to make war and suppress insurrection.

SOMETHING FOR REVERDY JOHNSON TO THINK OF.

A representative of the people and of the rights of the people before this court, by the appointment of the President, and which appointment was neither sought by me nor desired, I cannot allow all that has here been said by way of denunciations of the murdered President and his successor to pass unnoticed. This has been made the occasion by the learned counsel, Mr. Johnson, to volunteer, not to defend the accused, Mary E. Surratt, not to make a judicial argument in her behalf, but to make a political harangue, a partisan speech against his government and country, and hereby swell the cry of the armed legions of sedition and rebellion that but yesterday shook the heavens with their infernal enginery of treason, and filled the habitations of the people with death. As the law forbids a Senator of the United States to receive compensation, or fee, for defending in cases before civil or military commissions, the gentleman volunteers to make a speech before the court, in which he denounces the action of the Executive Department in proclaiming and executing martial law against rebels in arms, their aiders and abetters, as a usurpation and a tyranny. I deem it my duty to reply to this denunciation, not for the purpose of presenting thereby any question for the decision of the court, for I have shown that the argument of the gentleman presents no question for its decision as a court, but to repel, as far as I may be able, the unjust aspersion attempted to be cast upon the memory of our dead President and upon the official conduct of his successor.

I propose now to answer fully all that the gentleman (Mr. Johnson) has said of the want of jurisdiction in this court, and of the alleged usurpation and tyranny of the Executive, that the enlightened public opinion to which he appeals may decide whether all this denunciation is just—whether indeed conspiring against the whole people, and confederation and agreement in aid of insurrection to murder all the executive officers of the Government, cannot be checked or arrested by the executive power. Let the people decide this question, and in doing so, let them pass upon the action of the Senator as well as upon the action of those whom he so arrogantly arraigns. His plea in behalf of an expiring and shattered rebellion is a fit subject for public consideration and for public condemnation.

BEN WOOD AND REVERDY JOHNSON IN COMPANY.

Let the people also note, that while the learned gentleman, (Mr. Johnson), as a volunteer, without pay, thus condemns as a usurpation the means employed so effectually to suppress this gigantic insurrection, *The New York News*, whose proprietor, Benjamin Wood, is shown by the testimony upon your record to have received from the agents of the rebellion $25,000, rushes into the lists to champion the cause of the rebellion, its aiders and abettors, by following to the letter his colleague (Mr. Johnson), and with greater plainness of speech, and a fervor intensified, doubtless, by the $25,000 received, and the hope of more, denounces the court as a usurpation and threatens the members with the consequences.

JOHNSON THE CHAMPION OF REBELLION.

The argument of the gentleman to which the court has listened so patiently and so long is but an attempt to show that it is unconstitutional for the Government of the United States to arrest upon military order and try before military tribunals and punish upon conviction, in accordance with the laws of war and the usages of nations, all criminal offenders acting in aid of the existing rebellion. It does seem to me that the speech in its tone and temper is the same as that which the country has heard for the last four years uttered by the armed rebels themselves and by their apologists, averring that it was unconstitutional for the Government of the United States to defend by arms its own rightful authority and the supremacy of its laws.

THE TRIAL HAS NOT BEEN SECRET.

Mr. Johnson, while leaving to other counsel to argue the defence on its merits, arraigns the country and the government for conducting a trial with closed doors and before a secret tribunal, and compares the proceedings of this court to the Spanish Inquisition, using the strongest words at his command to intensify the horror which he supposes his announcement will excite throughout the civilized world.

Was this dealing fairly by this government? Was there any thing in the conduct of the proceedings here that justified any

such remark? Has this been a secret trial? Has it not been conducted in open day, in the presence of the accused, and in the presence of seven gentlemen learned in the law, who appeared from day to day as their counsel? Were they not informed of the accusation against them? Were they deprived of the right of challenge? Was it not secured to them by law, and were they not asked to exercise it? Has any part of the evidence been suppressed? Have not all the proceedings been published to the world? What, then, was done, or intended to be done, by the government, which justifies this clamor about a Spanish Inquisition?

Mr. Bingham then proceeds to expose sundry misquotations and misrepresentations of legal authorities by Mr. Johnson, and passes to consider whether martial law has been declared and is still in force throughout the country.

THE PROCLAMATION OF MARTIAL LAW.

The second point, that martial law has not been declared by any competent authority, is an arraignment of the late murdered President of the United States for his proclamation of September 24th, 1862, declaring martial law throughout the United States—and of which, in Lawrence's edition of Wheaton on International Law, p. 522, it is said: "Whatever may be the inference to be deduced either from constitutional or international law, or from the usages of European governments, as to the legitimate depository of the power of suspending the writ of *habeas corpus*, the virtual abrogation of the judiciary in cases affecting individual liberty, and the establishment as *matter of fact* in the United States, by the Executive alone, of martial law, not merely in the insurrectionary districts, or in cases of military occupancy, but throughout the entire Union, and not temporarily, but as an institution as permanent as the insurrection on which it professes to be based, and capable on the same principle of being revived in all cases of foreign as well as civil war, are placed beyond question by the President's proclamation of September 24th, 1862." That proclamation is as follows:

"BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

"*A Proclamation.*—Whereas, it has become necessary to call into service not only volunteers, but also portions of the militia of the States, by a draft, in order to suppress the insurrection existing in the United States, and disloyal persons are not adequately restrained by the ordinary processes of law from hindering this measure, and from giving aid and comfort in various ways to the insurrection: Now, therefore, be it ordered, that during the existing insurrection, and as a necessary means of suppressing the same, all rebels and insurgents, their aiders and abettors, within the United States, and all persons discouraging volunteer enlistments, resisting militia drafts, or guilty of any disloyal practice affording aid and comfort to rebels, against the authority of the United States, shall be subject to martial law, and liable to trial and punishment by courts-martial or military commission.

"*Second*, That the writ of *habeas corpus* is suspended in respect to all persons arrested, or who are now, or hereafter, during the rebellion, shall be imprisoned in any fort, camp, arsenal, military prison, or other place of confinement, by any military authority, or by the sentence of any court-martial or military commission.

"In witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed.

"Done at the City of Washington, this 24th day of September, A. D. 1862, and of the independence of the United States the eighty-seventh.

"By the President: ABRAHAM LINCOLN.

"WM. H. SEWARD, Sec'y of State."

This proclamation was duly certified from the War Department to be in full force and not revoked, and is evidence of record in this case; and but a few days since, a proclamation of the President, of which this court will take notice, declares that the same remains in full force.

The authority of the President to make this proclamation has been denied by Mr. Johnson, but it stands on the same ground with the proclamations of blockade issued April 19th and 27th, 1861, which declared a blockade of the ports of the insurgent States, and that all vessels violating the same were subjects of capture, and, together with the cargo, to be condemned as prizes. Inasmuch as Congress had not then recognized the fact of civil war, these proclamations were denounced as void. The Supreme Court decided otherwise, and affirmed the power of the Executive.

MILITARY TRIBUNALS JUSTIFIED BY PRESIDENT.

The Revolutionary War began with the establishment of military courts, and they continued throughout the war, and the legislation of the Continental Congress included civilians as well as soldiers.

THE EXAMPLE OF WASHINGTON.

Washington, the peerless, the stainless, and the just, with whom God walked through the night of that great trial, enforced this just and wise enactment upon all occasions. On the 30th of September, 1780, Joshua H. Smith, by the order of General Washington, was put upon his trial before a court-martial convened in the State of New York, on the charge of there aiding and assisting Benedict Arnold, in a combination with the enemy, to *take, kill,* and *seize* such loyal citizens or sol-

DEATH SCENE OF THE ASSASSIN.

Map showing where Booth was killed and Harold captured.

diers of the United States as were in garrison at West Point. Smith objected to the jurisdiction, averring that he was a private citizen not in the military or naval service, and therefore was only amenable to the civil authority of the State, whose constitution had guaranteed the right of trial by jury to all persons held to answer for crime. (Chandler's Criminal Trials, vol. 2, p. 187.) The constitution of New York then in force had so provided, but, notwithstanding that, the court overruled the plea, held him to answer, and tried him. I repeat, that when Smith was thus tried by court-martial the constitution of New York as fully guaranteed trial by jury, in the civil courts, to all civilians charged and held to answer for crimes within the limits of that State, as does the Constitution of the United States guarantee such trial within the limits of the District of Columbia. By the second of the Articles of Confederation, each State retained "its sovereignty," and every power, jurisdiction, and right not *expressly* delegated to the United States in Congress assembled. By those articles there was no express delegation of judicial power; therefore the States retained it fully.

The power to try by military tribunal is a

NECESSITY TO THE EXISTENCE OF THE NATION.

Here is a conspiracy, organized and prosecuted by armed traitors and hired assassins, receiving the moral support of thousands in every State and district, who pronounced the war for the Union a failure, and your now murdered but immortal Commander-in-Chief, a tyrant; the object of which conspiracy, as the testimony shows, was to aid the tottering rebellion which struck at the nation's life. It is in evidence that Davis, Thompson, and others, chiefs in this rebellion, in aid of the same, agreed and conspired with others, to poison the fountains of water which supply your commercial metropolis, and thereby murder its inhabitants; to secretly deposit in the habitations of the people and in the ships in your harbors inflammable materials, and thereby destroy them by fire; to murder by the slow and consuming torture of famine your soldiers, captive in their hands; to import pestilence in infected clothes to be distributed in your capital and camps, and thereby murder the surviving heroes and defenders of the republic, who, standing by the holy graves of your unreturning brave, proudly and defiantly challenge to honorable combat and open battle all public enemies, that their country may live; and, finally, to crown this horrid catalogue of crime, this sum of all human atrocities, conspired, as charged upon your record, with the accused and John Wilkes Booth and John H. Surratt to kill and murder in your capital the executive officer of your government and the commander of your armies. When this conspiracy, entered into by these traitors, is revealed by its attempted execution and the foul and brutal murder of your President in the capital, you are told that it is unconstitutional, in order to arrest the further execution of the conspiracy, to interpose the military power of this Government for the arrest, without civil process, of any of the parties thereto and for their trial by a military tribunal of justice. If any such rule had obtained during our struggle for independence we never would have been a nation. If any such rule had been adopted and acted upon now, during the fierce struggle of the past four years, no man can say that our nationality would have thus long survived.

AND IT IS THE NATION WHICH EXERCISES THE POWER.

That these powers for the common defence, intrusted by the Constitution exclusively to the Congress and the President, are, in time of civil war or foreign invasion, to be exercised without limitation or restraint, to the extent of public necessity, and without any intervention of the federal judiciary or of State constitutions or of State laws, are facts in our history not open to question.

The position is not to be answered by saying you make the American Congress thereby omnipotent, and clothe the American executive with the asserted attribute of hereditary monarchy—the king can do no wrong. Let the position be fairly stated—that the Congress and President, in war as in peace, are but the agents of the whole people, and that this unlimited power for the common defence against armed rebellion or foreign invasion is but the power of the people intrusted exclusively to the executive and legislative departments as their agents, for any and every abuse of which these agents are directly responsible to the people—and the demagogue cry of an omnipotent Congress, and an Executive invested with royal prerogatives, vanishes like the baseless fabric of a vision. If the Congress, corruptively or oppressively, or wantonly abuse this great trust, the people by the irresistible power of the ballot hurl them from place. If the President so abuse the trust, the people by their Congress withhold supplies, or by impeachment transfer the trust to better hands, strip him of the franchises of citizenship and of office, and declare him forever disqualified to hold any position of honor, trust or power under the Government of his country.

Mr. Bingham then proceeds to give copious citations in proof of his proposition that the power to exercise martial law is fully conferred by the Constitution upon the Executive and Congress. Both the advocates and opponents of the Constitution previous to its ratification affirmed that this power resided in it.

PUBLIC SAFETY THE SUPREME LAW.

It was as well understood then in theory as it has since been illustrated in practice, that

the judicial power, both Federal and State, had no voice and could exercise no authority in the conduct and prosecution of a war, except in subordination to the political department of the Government. The Constitution contains the significant provision, "The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it."

What was this but a declaration, that in time of rebellion or invasion, the public safety is the highest law?—that so far as necessary the civil courts (of which the Commander-in-chief, under the direction of Congress shall be the sole judge) must be silent, and the right of each citizen, as secured in time of peace, must yield to the wants, interests, and necessities of the nation? Yet we have been gravely told by the gentleman, in his argument, that the maxim, *salus populi suprema est lex*, is but fit for a tyrant's use. Those grand men, whom God taught to build fabric of empire, thought otherwise, when they put that maxim into the Constitution of their country. It is very clear, that the Constitution recognizes the great principle which underlies the structure of society and of all civil government: that no man lives for himself alone, but each for all: that, if need be, some must die that the State may live, because at best the individual is but for to-day, while the commonwealth is for all time. I agree with the gentleman in the maxim which he borrows from Aristotle, "Let the public weal be under the protection of the law;" but I claim that in war, as in peace, by the very terms of the Constitution of the country, the public safety is under the protection of the law; that the Constitution itself has provided for the declaration of war for the common defence, to suppress rebellion, to repel invasion, and, by express terms, has declared that whatever is necessary to make the prosecution of the war successful, may be done, and ought to be done, and is therefore constitutionally lawful.

NO TRIAL BY JURY IN WAR FOR PUBLIC ENEMIES.

If this be so, how can there be trial by jury for military offences in time of civil war? If you cannot, and do not try the armed enemy before you shoot him, or the captured enemy before you imprison him, why should you be held to open the civil courts and try the spy, the conspirator, and the assassin, in the secret service of the public enemy, by jury, before you convict and punish him? Why not clamor against holding imprisoned the captured armed rebels, deprived of their liberty without due process of law? Are they not citizens? Why not clamor against slaying for their crime of treason, which is cognizable in the civil courts, by your rifled ordnance and the iron hail of your musketry in battle, these public enemies, without trial by jury? Are they not citizens? Why is the clamor confined exclusively to the trial by military tribunals of justice of traitorous spies, traitorous conspirators, and assassins hired to do secretly what the armed rebel attempts to do openly—murder your nationality by assassinating its defenders and its executive officers? Nothing can be clearer than that the rebel captured prisoner, being a citizen of the Republic, is as much entitled to trial by jury before he is committed to prison, as the spy, or the aider and abetter of the treason by conspiracy and assassination, being a citizen, is entitled to such trial by jury, before he is subjected to the just punishment of the law for his great crime. I think that in time of war the remark of Montesquieu, touching the civil judiciary, is true: that "it is next to nothing." Hamilton well said: "The executive holds the sword of the community; the judiciary has no direction of the strength of society; it has neither force nor will; it has judgment alone, and is dependent for the execution of that, upon the arm of the executive." The people of these States so understood the Constitution, and adopted it, and intended thereby, without limitation or restraint, to empower their Congress and Executive to authorize by law, and execute by force, whatever the public safety might require to suppress rebellion or repel invasion.

WHAT THE SUPREME COURT SAYS.

The Supreme Court has so decided in effect—affirming by Chief-Justice Marshall that

"The powers given to the Government imply the ordinary means of execution, and the Government, in all sound reason and fair interpretation, must have the choice of the means which it deems the most convenient and appropriate to the execution of the power. * * * The powers of the Government were given for the welfare of the nation; they were intended to endure for ages to come, and to be adapted to the various crisis in human affairs. To prescribe the specific means by which Government should, in all future time, execute its power, and to confine the choice of means to such narrow limits as should not leave it in the power of Congress to adopt any which might be appropriate and conducive to the end, would be most unwise and pernicious." (4 Wheaton, 420.)

And so Mr. Justice Story:

"When the legislative authority, to whom the right to declare war is confined, has declared war in its most unlimited manner, the executive authority, to whom the execution of the war is confided, is bound to carry it into effect. He has a discretion vested in him as to the manner and extent, but he cannot lawfully transcend the rules of warfare established among civilized nations. He cannot lawfully exercise powers or authorize proceedings which the civilized world repudiates and disclaims. The sovereignty, as to declar-

ing war and limiting its effects, rests with the legislature. The sovereignty as to its execution rests with the President." (Brown agt. United States, 8 Cranch, 153.)

And in another case, on the question of who is to decide as to the exigency which is to justify Executive action, the court says:

"When the President has acted and called out the militia, is a circuit court of the United States authorized to inquire whether his decision was right? If it could, then it would become the duty of the court, provided it came to the conclusion that the President had decided incorrectly, to discharge those who were arrested or detained by the troops in the service of the United States." * * * * "If the judicial power extends so far, the guarantee contained in the Constitution of the United States is a guarantee of anarchy and not of order." * * * "Yet if this right does not reside in the courts when the conflict is raging, if the judicial power is at that time bound to follow the decision of the political, it must be equally bound when the contest is over. It cannot, when peace is restored, punish as offences and crimes the acts which it before recognized and was bound to recognize as lawful." (Luther *vs.* Borden, 7 Howard, 42, 43.)

THE PRESIDENT JUSTIFIED BY CONGRESS.

These acts of the President have, however, all been legalized by the subsequent legislation of Congress, although the Supreme Court decided, in relation to the proclamation of blockade, that no such legislation was necessary. By the act of August 6, 1861, ch. 63, sec. 3, it is enacted that:

"All the acts, proclamations, and orders of the President of the United States, after the 4th of March, 1861, respecting the army and navy of the United States, and calling out, or relating to the militia, or volunteers from the States, are hereby approved in all respects, legalized, and made valid to the same extent, and with the same effect, as if they had been issued and done under the previous express authority and direction of the Congress of the United States."—(12 Stat. at Large, 326.)

This act legalized, if any such legalization was necessary, all that the President had done from the day of his inauguration to that hour, in the prosecution of the war for the Union. He had suspended the privilege of the writ of habeas corpus, and resisted its execution when issued by the Chief Justice of the United States; he had called out and accepted the services of a large body of volunteers for a period not previously authorized by law; he had declared a blockade of the Southern ports; he had declared the Southern States in insurrection; he had ordered the armies to invade them and suppress it; thus exercising, in accordance with the laws of war, power over the life, the liberty, and the property of the citizen. Congress ratified it and affirmed it.

In like manner and by subsequent legislation did the Congress ratify and affirm the proclamation of martial law of September 25, 1862. That proclamation, as the court will have observed, declares that during the existing insurrection all rebels and insurgents, their aiders and abettors within the United States, and all persons guilty of any disloyal practice, affording aid and comfort to the rebels against the authority of the United States, shall be subject to martial law and liable to trial and punishment by courts-martial or *military commission;* and second, that the writ of habeas corpus is suspended in respect to all persons arrested, or who are now or hereafter during the rebellion shall be imprisoned in any fort, etc., by any military authority, or by the sentence of any court-martial or *military commission.*

AND THE PEOPLE HAVE JUSTIFIED BOTH PRESIDENT AND CONGRESS.

But, says the gentleman, whatever may be the precedents English or American, whatever may be the provisions of the Constitution, whatever may be the legislation of Congress, whatever may be the proclamations and orders of the President as commander-in-chief, it is a usurpation and a tyranny in time of rebellion and civil war to subject any citizen to trial for any crime before military tribunals, save such citizens as are in the land or naval forces, and against this usurpation, which he asks this court to rebuke by solemn decision, he appeals to public opinion. I trust that I set as high value upon enlightened public opinion as any man. I recognize it as the reserved power of the people which creates and dissolves armies, which creates and dissolves legislative assemblies, which enacts and repeals fundamental laws, the better to provide for personal security by the due administration of justice. To that public opinion upon this very question of the usurpation of authority, of unlawful arrests, and unlawful imprisonments, and unlawful trials, condemnations, and executions by the late President of the United States, an appeal has already been taken to public opinion. On this very issue the President was tried before the tribunal of the people, that great nation of freemen, who cover this continent, looking out upon Europe from their eastern and upon Asia from their western homes. That people came to the consideration of this issue not unmindful of the fact, that the first struggle for the establishment of our nationality could not have been, and was not successfully prosecuted without the proclamation and enforcement of martial law, declaring, as we have seen, that any inhabitant who, during that war, should kill any loyal citizen, or enter into any combination for that purpose, should, upon trial and conviction before a military tribunal, be sentenced as an assassin, traitor, or spy, and should suffer death, and that in

this last struggle for the maintenance of the American nationality, the President but followed the example of the illustrious Father of his Country. Upon that issue the people passed judgment on the 8th day of last November, and declared that the charge of usurpation was false.

From this decision of the people there lies no appeal on this earth. Who can rightfully challenge the authority of the American people to decide such questions for themselves? The voice of the people, thus solemnly proclaimed, by the omnipotence of the ballot in favor of the righteous order of their murdered President, issued by him for the common defence, for the preservation of the Constitution, and for the enforcement of the laws of the Union, ought to be accepted, and will be accepted, I trust, by all just men as the voice of God.

A WORD FROM MR. EWING.

Mr. Ewing said, I ask permission of the court to say, in response to the allusion of the Assistant Judge-Advocate to my acts as military commander, that he will find in the Bureau of Military Justice no records of the trial in my former commands of any persons not in the military service of the United States or in the Confederate service, except guerillas, robbers and others, *hostes humani generis* taken *flagrante bello*, with arms in their hands, or in acts of hostility, and if he will do me the favor to refer to my argument on the jurisdiction, he will see that I not only did not deny but conceded the power of arrest and summary punishment by the commanding General in the field of all such persons, restricted only by the laws and the orders of military superiors.

The court adjourned until to-morrow, at 1 o'clock, when it is expected that Judge Bingham will proceed to a review of the evidence for the Government.

PROCEEDINGS OF WEDNESDAY, JUNE 28th.

SUMMING UP OF THE EVIDENCE BY JUDGE BINGHAM.

The court met at 2 o'clock this afternoon, when special Judge-Advocate Bingham proceeded to sum up the evidence and present his views of the law arising upon the facts in the case on trial. The questions of fact involved in the issue are:

First. Did the accused or any two of them, in pursuance of such conspiracy, and with the intent alleged, commit either or all of the several acts specified?

If this conspiracy be established as laid, it results that whatever was said or done by either of the parties thereto, in the furtherance or execution of the common design, is the declaration or act of all the other parties to the conspiracy, and this whether the other party, at the time such words were uttered or such acts done by their confederates, were present or absent—here within the intrenched lines of your capital, or crouching behind the intrenched lines of Richmond, or awaiting the results of their murderous plot against their country, its Constitution and laws, across the borders, under the shelter of the British flag.

The declared and accepted rule of law in cases of conspiracy is, that in prosecution for conspiracy it is an established rule that where several persons are proved to have combined together for the same illegal purpose, any act done by one of the party in pursuance of the original concerted plan, and in reference to the common object, is in the contemplation of the law, as well as in sound reason, the act of the whole party; and, therefore, the proof of the act will be evidence against any of the others who were engaged in the same general conspiracy, without regard to the question whether the prisoner is proved to have been concerned in the particular transaction.

The same rule obtains in cases of treason. If several persons agree to levy war, some in one place and some in another, and one party do actually appear in arms, this is a levying of war by all, as well those who were not in arms as those who were, if it were done in pursuance of the original concert, for those who made the attempt were emboldened by the confidence inspired by the general concert, and, therefore, those particular acts are, in justice, imputable to all the rest.

Judge Bingham asked what is the evidence that the accused did combine, confederate and conspire to kill and murder Abraham Lincoln, late President of the United States of America, and Commander-in-chief of the Army and Navy; Andrew Johnson, William H. Seward, and Ulysses S. Grant, Lieutenant-General of the armies thereof, and then in command under the direction of the President; that Davis, as the leader of the rebellion gave to his agents, then in Canada, commissions in blank, bearing the official signature of his War Minister, James A. Seddon, to be by them filled up and delivered to such agents as they might employ to act in the interests of the rebellion with the United States, and intended to be a cover and protection for any crimes they might therein commit in the service of the rebellion, are also facts established here, and which no man can gainsay.

Mr. Bingham then proceeded to show that there was positive proof on the record to show that the rebel chief, Jefferson Davis, sanctioned the crimes committed and attempted through the instrumentality of his accredited agents in Canada, Thompson, Clay, Tucker, Sanders, Cleary, etc., upon the persons, and property of the people of the North, and that Davis, the procurer of arson, and of the indiscriminate murder of the innocent and unoffending necessarily resultant therefrom, was

capable also of endeavoring to procure, and, in fact, did procure the murder, by direct assassination, of the President of the United States, and others charged with the duty of maintaining the Government of the United States, and of suppressing the rebellion in which this arch-traitor and conspirator was engaged. The official papers of Davis, captured under the guns of our victorious army in the rebel capitol, identified beyond question or shadow of doubt, placed upon your record, together with the declarations and acts of his conspirators and agents, proclaim to all the world that he was capable of attempting to accomplish his treasonable procuration of the murder of the late President, and other chief officers of the United States, by the hands of hired assassins.

After quoting from the testimony, Mr. Bingham said the court must be satisfied that the several parties named on the record did combine and conspire together in Canada to kill and murder Abraham Lincoln, Andrew Johnson, William H. Seward and Ulysses S. Grant, and that this agreement was substantially entered into by Booth and the agents of Davis, in Canada, as early as October, there could not be any doubt.

Whatever may be the conviction of others, my own conviction is that Jefferson Davis is as clearly proven guilty of this conspiracy as is John Wilkes Booth, by whose hand Jefferson Davis inflicted the mortal wound upon Abraham Lincoln. His words of intense and rage and disappointment are not to be overlooked, "that the assassins had not done their work well; that they had not succeeded in robbing the people altogether of their Constitutional Executive and advisers;" and hence Davis exclaims, "if they had killed Andy Johnson, the Beast, and Secretary Stanton, the job would be completed." "The job," says this procurer of assassination, "was not well done. It had been better if it had been well done." It appeared by the testimony that the proposition made to Davis was to kill and murder the deadliest enemies of the confederacy. Not kidnap them, as is now pretended here; that by the declaration of Saunders, Tucker, Thompson, Clay, Cleary, Harper and Young, the conspirators in Canada, the agreement and combination among them was to kill and murder Abraham Lincoln, William H. Seward, Andrew Johnson, Ulysses S. Grant, Edwin M. Stanton, and others of his advisers, and not kidnap them. It appeared from every utterance of John Wilkes Booth, as well as from the Charles Selby Letter, that as early as November the proposition with him was to kill and murder, and not to kidnap.

The learned gentleman entered into an elaborate review of the evidence, saying, that there was co-operation between the several accused in the execution of this conspiracy, is as clearly established by the testimony, as is the fact that Abraham Lincoln was killed and murdered by John Wilkes Booth. He then detailed the movements of the various conspirators, and concluded the summary of the evidence as follows:

If this treasonable conspiracy has not been wholly executed; if the several executive officers of the United States and the commander of its armies, to kill and murder whom, the said several accused thus confederated and conspired, have not each and all fallen by the hands of those conspirators, thereby leaving the people of the United States without a President and Vice-President, without a Secretary of State, who alone is clothed with authority by the law to call an election to fill the vacancy, should any arise, in the offices of President and Vice-President, and without a lawful commander of the armies of the Republic, it is only because the conspirators were deterred by the vigilance and fidelity of the executive officers, whose lives were mercifully protected on that night of murder, by the care of the Infinite Being, who has thus far saved the Republic and crowned its arms with victory.

If this conspiracy was thus entered into by the accused; if John Wilkes Booth did kill and murder Abraham Lincoln in pursuance thereof; if Lewis Payne did, in pursuance of said conspiracy, assault, with intent to kill and murder, William H. Seward, as stated, and if the several parties accused did commit the several acts alleged against them in the prosecution of said conspiracy, then it is the law that all the parties to that conspiracy, whether present at the time of its execution or not, whether on trial before this court or not, are alike guilty of the several acts done by each in the execution of the common design. What these conspirators did in the execution of this conspiracy by the hand of one of their conspirators, they did themselves.

His act, done in the prosecution of the common design, was the act of all the parties to the treasonable combination, because done in execution and furtherance of their guilty and treasonable agreement. As we have seen, this is the rule. Whether all the conspirators are indicted or not, whether they are all on trial or not, it is not material what the indictment is, provided the offence involve a conspiracy. Upon an indictment for murder, for instance, if it appear that others, together with the prisoner, conspired to perpetrate the crime, the act of one, done in pursuance of that intention, would be evidence against the rest.

To the same effect are the words of Chief Justice Marshall, before cited, that whoever is leagued in a general conspiracy, performed any part, however minute, or however remote from the scene of action, are guilty as principals. In this treasonable conspiracy to aid the existing armed rebellion, by murdering

the executive officers of the United States and the commander of its armies, all the parties to it must be held as principals, and the act of one in the prosecution of the common design, is the act of all.

After the delivery of the Assistant Judge Bingham's argument, Mr. Ewing, as counsel for Mudd, Spangler and Arnold, asked leave to read to the court a paper setting forth that, in his opinion, that officer had unintentionally misstated the evidence in a number of matters of great importance in the consideration of the cases of the accused, and asking the court to test the accuracy of the statements of facts, and alluded by reference to the record, whereupon the court was cleared, to consider whether the papers offered should be read.

The court adjourned until Thursday, June 28, when a verdict was found in the case of each of the conspirators.

CONDEMNATION AND SENTENCES OF THE ASSASSINS.

Washington, July 6.—In accordance with the findings and sentences of the Military Commission, which the President approved yesterday, David E. Harrold, Lewis Payne, Mrs. Surratt and George A. Atzerodt are to be hung to-morrow, by the proper military authorities.

Dr. Mudd, Arnold and O'Laughlin are to be imprisoned for life, and Spangler for six years, all at hard labor, in the Albany Penitentiary.

THE OFFICIAL ORDER.

War Department Adjutant-General's Office, Washington, July 5, 1865.—To Major-General W. S. Hancock, United States Volunteers, commanding the Middle Military Division, Washington, D. C.

Whereas, By the military commission appointed in paragraph 4, Special Orders No. 211, dated War Department, Adjutant-General's Office, Washington, May 6, 1865, and of which Major-General David Hunter, United States Volunteers, was President, the following persons were tried, and, after mature consideration of evidence adduced in their cases, were found and sentenced as hereinafter stated, as follows:—

HARROLD'S SENTENCE.

First. David E. Harrold.—Finding of the specification, guilty, except combining, confederating and conspiring with Edward Spangler, as to which part thereof, not guilty; of the charge guilty, except the words of the charge, that he combined, confederated and conspired with Edward Spangler, as to which part of the charge not guilty.

Sentence.—And the commission does, therefore sentence him, the said David E. Harrold, to be hanged by the neck until he be dead, at such time and place as the President of the United States shall direct, two-thirds of the commission concurring therein.

ATZERODT'S SENTENCE.

Second. George A. Atzerodt.—Finding of specification, guilty, except combining confederating and conspiring with Edward Spangler; of this, not guilty. Of the charge, guilty, except combining, confederating and conspiring with Edward Spangler; of this, not guilty.

Sentence.—And the commission does therefore sentence him, the said George A. Atzerodt, to be hung by the neck until he be dead, at such time and place as the President of the United States shall direct, two-thirds of the commission concurring therein.

PAYNE'S SENTENCE.

Third. Lewis Payne.—Finding of the specification, guilty, except combining, confederating and conspiring with Edward Spangler; of this, not guilty. Of the charge, guilty, except combining, confederating and conspiring with Edward Spangler; of this, not guilty.

Sentence.—And the commission does therefore sentence him, the said Lewis Payne, to be hung by the neck until he be dead, at such time and place as the President of the United States shall direct, two-thirds of the commission concurring therein.

MRS. SURRATT'S SENTENCE.

Fourth. Mary E. Surratt.—Finding of the specification, guilty, except as to receiving, sustaining, harboring and concealing Samuel Arnold and Michael O'Laughlin, and except as to combining, confederating and conspiring with Edward Spangler; of this, not guilty. Of the charge, guilty, except as to combining, confederating and conspiring with Edward Spangler; of this, not guilty.

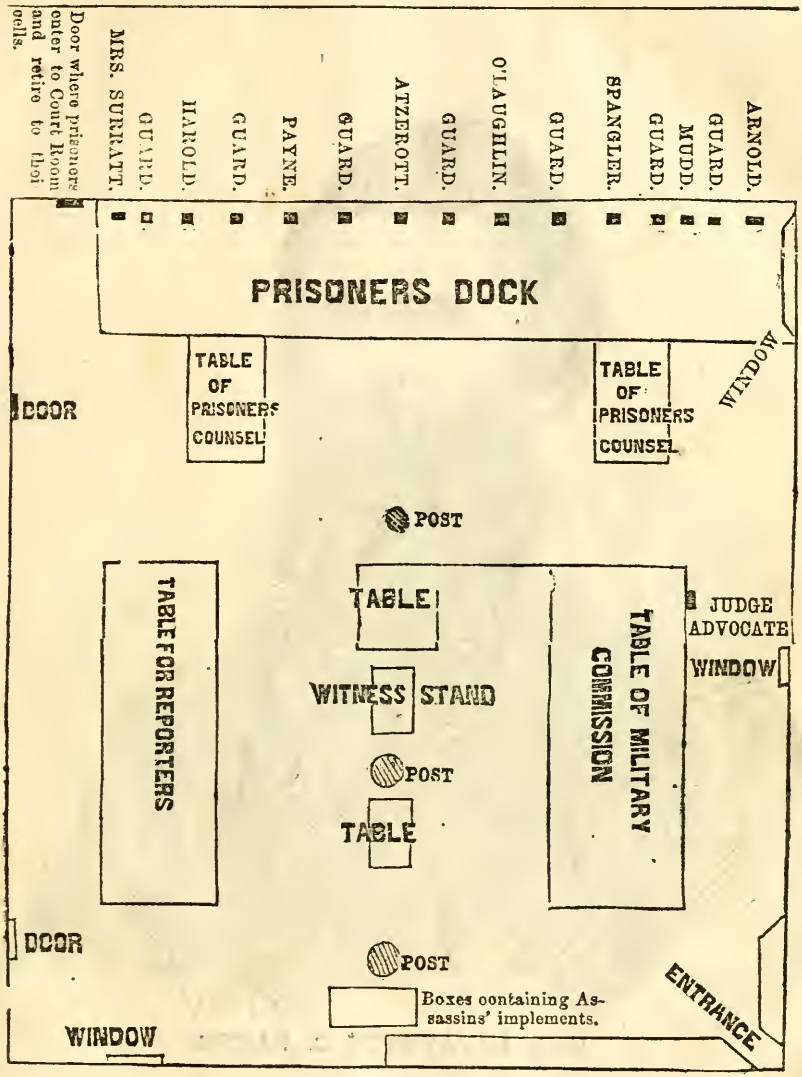
Sentence.—And the commission does therefore sentence her, the said Mary E. Surratt, to be hung by the neck until she be dead, at such time and place as the President of the United States shall direct, two-thirds of the members of the commission concurring therein.

PRESIDENT JOHNSON'S APPROVAL.

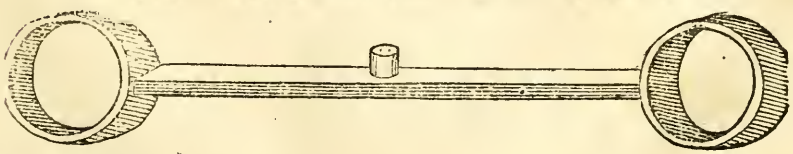
And whereas the President of the United States has approved the foregoing sentences, in the following Order, to wit:

Executive Mansion, July 5, 1865.—The foregoing sentences in the cases of David E. Harrold, G. A. Atzerodt, Lewis Payne, and Mary E. Surratt, are hereby approved; and it is ordered, That the sentences in the cases of David E. Harrold, G. A. Atzerodt, Lewis Payne and Mary E. Surratt, be carried into execution by the proper military authority, under the direction of the Secretary of War, on the 7th day of July, 1865, between the

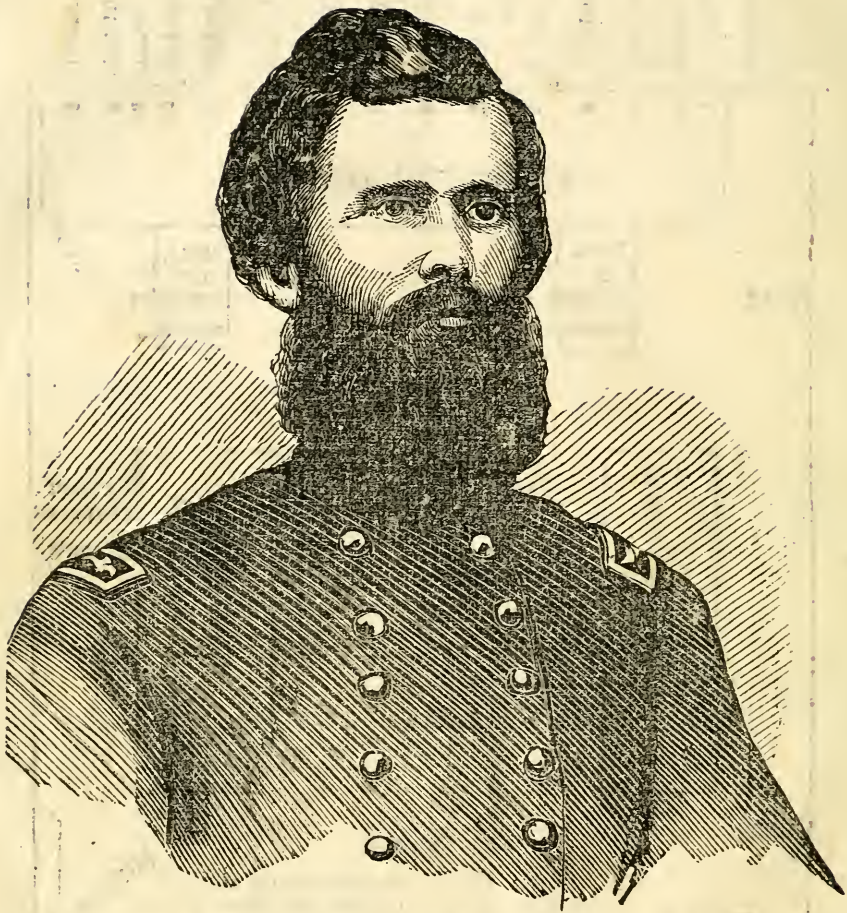
Interior View of the Court Room Occupied by the Military Commission.



THE PRISONERS' MANACLES.



The above is a correct drawing of the manacles used in confining the arms of the prisoners. The wristlets are attached to an iron bar, about twelve inches in length, which prevents the wearer from joining his hands, as in the old-fashioned shackle, where the clasps are connected by chain links, thus effectually preventing the culprit from unfastening or breaking them



COL. LAFAYETTE C. BAKER.

hours of ten o'clock, A. M., and two o'clock, P. M., of that day. (Signed)

ANDREW JOHNSON, *President.*

Therefore, you are hereby commanded to cause the foregoing sentences in the cases of David E. Harrold, G. A. Atzerodt, Lewis Payne, and Mary E. Surratt, to be duly executed, in accordance with the President's order.

By command of the President of the United States. E. D. TOWNSEND,

Assistant Adjutant-General.

In the remaining cases of O'Laughlin, Spangler, Arnold, and Mudd, the findings and sentences are as follows:

O'LAUGHLIN'S SENTENCE.

Fifth. Michael O'Laughlin.—Finding of the specification guilty, except the words thereof as follows:

"And in the words thereof as follows:—And in the further prosecution of the conspiracy aforesaid, and of its murderous and treasonable purposes aforesaid, on the nights of the 13th and 14th of April, 1865, at Washington city, and within the military department and military lines aforesaid, the said Michael O'Laughlin did there and then lie in wait for Ulysses S. Grant, then Lieutenant-General and commander of the armies of the United States, with intent then and there to kill and murder the said Ulysses S. Grant, of said words not guilty, and except combining, confederating and conspiring with Edward Spangler, of this not guilty. Of the charge, guilty, except combining, confederating and conspiring with Edward Spangler; of this not guilty.

Sentence.—The commission sentence O'Laughlin to be imprisoned at hard labor for life.

SPANGLER'S SENTENCE.

Sixth. Finding.—Edward Spangler, of the specification, not guilty, except as to the words, "the said Edward Spangler, on said 14th day of April, A. D. 1865, at about the same hour of that day, as aforesaid, within said military department and the military lines aforesaid, did aid and abet him (meaning John Wilkes Booth) in making his escape after the said Abraham Lincoln had been murdered in manner aforesaid," and of these words, guilty.

Of the charge not guilty, but guilty of having feloniously and traitorously aided and abetted John Wilkes Booth in making his escape after having killed and murdered Abraham Lincoln, President of the United States, he, the said Edward Spangler, at the time of aiding and abetting as aforesaid, well knowing that the said Abraham Lincoln, President as aforesaid, had been murdered by the said John Wilkes Booth as aforesaid. The commission sentenced Spangler to hard labor for six years.

ARNOLD'S SENTENCE.

Seventh. Samuel Arnold.—Of the specifications guilty, except combining, confederating and conspiring with Edward Spangler, of this not guilty. Of the charge guilty, except combining, confederating and conspiring with Edward Spangler, of this not guilty. The commission sentenced him to imprisonment at hard labor for life.

DR. MUDD'S SENTENCE.

Eighth. Samuel A. Mudd.—Of the specification guilty, except combining, confederating and conspiring with Edward Spangler; of this, not guilty; and excepting receiving and entertaining and harboring and concealing said Lewis Payne, John H. Surratt, Michael O'Laughlin, George A. Atzerodt, Mary E. Surratt and Samuel Arnold, of this, not guilty.

Of the charge guilty, except combining, confederating and conspiring with Edward Spangler, of this not guilty. The commission sentenced Mudd to be imprisoned at hard labor for life.

The President's order in these cases is as follows:—

It is further ordered that the prisoners, Samuel Arnold, Samuel A. Mudd, and Michael O'Laughlin, be confined at hard labor in the Penitentiary at Albany, New York, during the period designated in their respective sentences. ANDREW JOHNSON, *President.*

THE SENTENCE READ TO THE PRISONERS.

About noon to-day General Hancock, who is charged with the execution of the sentences, proceeded to the Penitentiary, and in company with Major-General Hartranft visited the cell of each prisoner and informed each what verdict had been rendered. No one was present at this interview but the two generals and the turnkey.

MRS. SURRATT,

On learning her fate, was extremely depressed, and wept bitterly. She was alone, her daughter having left her a short time before, not knowing the sentence was to be announced to her mother to-day.

PAYNE

Seemed to regard it as a foregoing conclusion, and manifested little or no emotion. He has evidently nerved himself to meet his death with firm resolution.

ATZERODT

Was violently agitated and almost paralyzed with fear. He evidently hoped for a different result, but it is difficult to see how he could have expected it to have been otherwise.

HARROLD

Listened to the reading of the order in his case with boyish indifference, but soon after became impressed with the solemnity of his

situation and appeared more serious, asking that his sisters might be allowed to visit him.

PAYNE ASKS FOR A BAPTIST CLERGYMAN.

Payne asked that Dr. Stracker, a Baptist clergyman of Baltimore, be sent for, which was done, and that gentleman arrived here this evening, and is in attendance upon the prisoner.

MRS. SURRATT'S SPIRITUAL ADVISERS.

Mrs. Surratt asked that Fathers Walker and Wiget, Catholic priests of Baltimore, be sent for. Her wish was immediately complied with, and both the clergymen arrived this evening, and were admitted to her cell.

REV. DR. BUTLER ATTENDS ATZERODT.

Atzerodt could name no clergyman he wished to attend him; but upon General Hartranft naming Rev. Mr. Butler, a Lutheran clergyman of Washington city, the prisoner desired he might be sent for, and he was in attendance upon the prisoner early this afternoon.

HARROLD'S SISTERS VISIT HIM.

Five of Harrold's sisters visited him this afternoon at the prison and the scene was truly distressing. After they left him they wept bitterly, in the entrance room downstairs. Two are grown ladies and the others young misses. But they all seemed to realize the dreadful situation of their brother.

One of them brought a small basket of cakes and little delicacies for the prisoner, which was left in charge of General Hartranft to be examined before being given to him. One of the elder sisters sat down and wrote a note to her brother, which was also left in charge of General Hartranft to give Harrold.

NO EXECUTIVE CLEMENCY.

Harrold's sisters called at the White House this afternoon, pleading for mercy, and Father Walker and Mr. Aiken, one of Mrs. Surratt's counsel, also called on behalf of Mrs. Surratt, but the President declined to see any of them, and referred them all to Judge Holt. It would seem to be the determination of the President to decline interfering in the matter, and there is no doubt but all those condemned to death will be executed to-morrow, Mrs. Surratt among the number.

Aiken says he has some after-discovered testimony to offer, favorable to her case. But it is not probable the President will relent to-morrow.

CHARGES AND SPECIFICATIONS.

We publish in full the charges and specifications preferred against the conspirators, by order of the President, and upon which they have been found guilty.

The following is a copy of the charge and specification against David E. Harrold, George A. Atzerodt, Lewis Payne, Michael O'Laughlin, John H. Surratt, Edward Spangler, Samuel Arnold, Mary E. Surratt and Samuel Mudd:—

Charge First.—For maliciously, unlawfully and traitorously, and in aid of the existing armed rebellion against the United States of America, on or before the 6th day of March, A. D. 1865, and on divers other days between that day and the 15th day of April, 1865, combining, confederating and conspiring, together with one John H. Surratt, John Wilkes Booth, Jefferson Davis, Geo. N. Sanders, Beverly Tucker, Jacob Thompson, William C. Cleary, Clement C. Clay, George Harper, George Young, and others unknown, to kill and murder within the Military Department of Washington, and within the fortified and intrenched lines thereof, Abraham Lincoln, and at the time of said combining, confederating and conspiring, President of the United States of America, and Commander-in-chief of the army and navy thereof; Andrew Johnson, then Vice-President of the United States as aforesaid; William H. Seward, Secretary of State of the United States aforesaid, and Ulysses S. Grant, Lieutenant-General of the Army of the United States aforesaid, then in command of the armies of the United States, under the direction of the said Abraham Lincoln and in pursuance of, and in prosecuting said malicious, unlawful and traitorous conspiracy aforesaid, and in aid of the rebellion afterwards, to wit:

On the 14th day of April, 1865, within the military department of Washington aforesaid, and within the fortified and entrenched lines of said military department, together with said John Wilkes Booth and John H. Surratt, maliciously, unlawfully and traitorously murdering the said Abraham Lincoln, then President of the United States, and Commander-in-chief of the army and navy of the United States as aforesaid, and maliciously unlawfully and traitorously assaulting, with intent to kill and murder the said William H. Seward, then Secretary of State of the United States as aforesaid, and lying in wait with intent, maliciously, unlawfully and traitorously, to kill and murder the said Andrew Johnson, then being Vice-President of the United States, and the said Ulysses S. Grant, then being Lieutenant-General, and in command of the armies of the United States aforesaid.

Specification First.—In this that they, the said David E. Harrold, Edward Spangler, Lewis Payne, John H. Surratt, Michael O'Laughlin, Samuel Arnold, Mary E. Surratt, George A. Atzerodt, and Samuel A. Mudd, incited and encouraged thereunto by Jefferson Davis, George N. Sanders, Beverly Tucker, Jacob Thompson, William C. Cleary, Clement C. Clay, George Harper, George Young, and others unknown, citizens of the United States aforesaid, and who were then engaged in armed rebellion against the United States

of America, within the limits thereof, did in aid of said armed rebellion on or before the 6th day of March, A. D. 1865, and on divers other days and times between that day and the 15th day of April, A. D., 1865, combine, confederate, and conspire together, at Washington city, within the military department of Washington, and within the intrenched fortifications and military lines of the said United States, there being, unlawfully, maliciously, and traitorously, to kill and murder Abraham Lincoln, then President of the United States aforesaid, and Commander-in-chief of the army and navy thereof, and unlawfully, maliciously, and traitorously to kill and murder Andrew Johnson, then Vice-President of the said United States, upon whom, on the death of said Abraham Lincoln, after the fourth day of March, Anno Domini, 1865, the office of President of the said United States, and the Commander-in-chief of the army and navy thereof, would devolve, and to unlawfully, maliciously, and traitorously kill and murder Ulysses S. Grant, then Lieutenant-General, and, under the direction of the said Abraham Lincoln, in command of the armies of the United States aforesaid, and unlawfully, maliciously and traitorously to kill and murder William H. Seward, then Secretary of State of the United States aforesaid, whose duty it was by law, upon the death of said President and Vice President of the United States aforesaid, to cause an election to be held for electors of President of the United States, the conspirators aforesaid designing and intending by the killing and murder of the said Abraham Lincoln, Andrew Johnson, Ulysses S. Grant and William H. Seward, as aforesaid, to deprive the army and navy of the said United States of a constitutional Commander-in-chief, and to deprive the armies of the United States of their lawful commander, and to prevent a lawful election of President and Vice-President of the United States, aforesaid, and by the means aforesaid to aid and comfort the insurgents engaged in armed rebellion against the said United States as aforesaid, and thereby aid in the subversion and overthrow of the Constitution and the laws of the United States; and being so combined, confederated and conspiring together in the prosecution of said unlawful and traitorous conspiracy, on the night of the 14th day of April, A. D., 1865, at the hour of about ten o'clock and fifteen minutes, P. M., at Ford's Theatre, on Tenth street, in the city of Washington, and within the military department and military lines aforesaid, John Wilkes Booth, one of the conspirators aforesaid, in pursuance of said unlawful and traitorous conspiracy, did then and there unlawfully, maliciously and traitorously, and with intent to kill and murder the said Abraham Lincoln, discharge a pistol then held in the hands of him, the said Booth, the same being then loaded with powder and leaden ball, against and upon the left and posterior side of the head of the said Abraham Lincoln, and did thereby then and there inflict upon him, the said Abraham Lincoln, then President of the United States, and Commander-in-chief of the army and navy thereof, a mortal wound, whereof afterward to wit:

On the 15th day of April, A. D. 1865, at Washington city aforesaid, the said Abraham Lincoln died, and thereby then and there, and in pursuance of said conspiracy the said defendants and the said John Wilkes Booth did unlawfully, traitorously and maliciously, with the intent to aid the rebellion aforesaid, kill and murder the said Abraham Lincoln, President of the United States as aforesaid, and in further prosecution of the unlawful and traitorous conspiracy aforesaid, and of the murderous and traitorous intent of said conspiracy, the said Edward Spangler, on the said 14th day of April, A. D. 1865, at about the same hour of that day, as aforesaid, within said military department and the military lines aforesaid, did aid and assist the said John Wilkes Booth to obtain an entrance to the box in the said theatre in which the said Abraham Lincoln was sitting at the time he was assaulted and shot as aforesaid by John Wilkes Booth; and also did then and there aid said Booth in barring and obstructing the door of the box of said theatre, so as to hinder and prevent any assistance to or rescue of the said Abraham Lincoln, against the murderous assault of the said John Wilkes Booth, and did aid and abet him in making his escape after the said Abraham Lincoln had been murdered in the manner aforesaid; and in further prosecution of said unlawful, murderous and traitorous conspiracy, and in pursuance thereof, and with the intent as aforesaid, the said David E. Harrold did, on the 14th of April, A. D. 1865, within the military department and military lines aforesaid, aid and abet and assist the said John Wilkes Booth in the killing and murder of the said Abraham Lincoln, and did then and there aid and abet and assist him, the said John Wilkes Booth, in attempting to escape through the military lines aforesaid, and did accompany and assist the said John Wilkes Booth in attempting to conceal himself and escape from justice after killing and murdering the said Abraham Lincoln aforesaid; and in further prosecution of said unlawful and traitorous conspiracy, and of the intent thereof as aforesaid, the said Lewis Payne did on the same night of the 14th day of April, 1865, about the same hour of ten o'clock, fifteen minutes P. M., at the city of Washington, and within the military department and the military lines aforesaid, unlawfully and maliciously make an assault upon the said William H. Seward, Secretary of State as aforesaid, in the dwelling-house and bed-chamber of him, the said William H. Seward, and the said Payne did then and there, with a large knife held in his

hand, unlawfully, traitorously and in pursuance of said conspiracy, strike, stab, cut and attempt to kill and murder the said William H. Seward, and did thereby then and there and with the intent aforesaid, with said knife inflict upon the face and throat of said William H. Seward divers grievous wounds, and said Lewis Payne, in further prosecution of said conspiracy at the same time and place last aforesaid, did attempt, with the knife aforesaid, and a pistol, held in his hand, to kill and murder Frederick W. Seward, Agustus H. Seward, Emrick W. Hansel, and George F. Robinson, who were then striving to protect and rescue the said William H. Seward from being murdered by the said Lewis Payne, and did then and there with said knife and pistol held in his hands, inflict upon the head of said Frederick W. Seward, and upon the persons of said Agustus H. Seward, Emrick W. Hansel, and George F. Robinson divers grievous and dangerous wounds, with intent then and there to kill and murder the said Frederick W. Seward, Agustus H. Seward, Emrick W. Hansel, and George F. Robinson.

And in further prosecution of said conspiracy and its traitorous and murderous designs, the said George A. Atzerodt did, on the night of the 14th of April, A. D. 1865, and about the same hour aforesaid, within the military department and the military lines aforesaid, lie in wait for Andrew Johnson, then Vice-President of the United States aforesaid, with the intent unlawfully and maliciously to kill and murder him, the said Andrew Johnson.

And in the further prosecution of the conspiracy aforesaid, and of its murderous and treasonable purpose aforesaid, on the night of the 13th and 14th of April A. D. 1865, at Washington city, and within the military department and military lines aforesaid, the said Michael O'Laughlin did then and there lie in wait for Ulysses S. Grant, then Lieutenant-General and Commander of the Armies of the United States as aforesaid, with intent then and there to kill and murder the said Ulysses S. Grant.

And in the further prosecution of said conspiracy the said Samuel Arnold did, within the military department and military lines aforesaid, on or before the sixth day of March, A. D. 1865, and on divers other days and times between that day and the fifteenth day of April, A. D. 1865, combine, conspire with, and aid, counsel, abet, comfort and support the said John Wilkes Booth, Lewis Payne, George A. Atzerodt, Michael O'Laughlin and their confederates in said unlawful, murderous and traitorous conspiracy, and in the execution thereof as aforesaid:—

And, in further prosecution of the said conspiracy, Mary E. Surratt did, at Washington city, and within the military department and the military lines aforesaid, on or before the sixth day of March, A. D. 1865, and on divers other days and times between that day and the 20th of April, A. D. 1865, receive, entertain, harbor, and conceal, aid and assist the said John Wilkes Booth, David C. Harrold, Lewis Payne, John H. Surratt, Michael O'Laughlin, George A. Atzerodt, Samuel Arnold, and their confederates, with knowledge of the murderous and traitorous conspiracy aforesaid, and with intent to aid, abet and assist them in the execution thereof, and in escaping from justice after the murder of the said Abraham Lincoln, as aforesaid, and in further prosecution of said conspiracy, the said Samuel A. Mudd did, at Washington city, and within the military department and military lines aforesaid on or before the 6th day of March, A. D. 1865, and on divers other days and times between that day and the 20th day of April, A. D. 1865, advise, encourage, receive, entertain, harbor and conceal, aid and assist the said John Wilkes Booth, David E. Harrold, Lewis Payne, John H. Surratt, Michael O'Laughlin, George A. Atzerodt, Mary E. Surratt, and Samuel Arnold and their confederates, with knowledge of the murderous and traitorous conspiracy aforesaid, and with intent to aid, abet, and assist them in the execution thereof, and in escaping from justice after the murder of the said Abraham Lincoln, in pursuance of said conspiracy in manner aforesaid.

By order of the President of the United States.

J. Holt, Judge Advocate-General.

SKETCHES OF THE ASSASSINS.

LEWIS PAYNE.

A great mystery envelopes this man, a mystery which seems impenetrable. As the assassin who attempted the life of Secretary Seward, more than ordinary interest was attached to the testimony affecting his case. Who he is no one appeared to know on the trial. The nearest approach to any thing satisfactory is, that he is the son of a Rev. Dr. Powell, a Baptist minister, residing in Florida; but even this is not positively ascertained. Miss Brandon, a witness produced in his behalf, remembered him as a nurse in one of the hospitals after the battle of Gettysburg. He then went by the name of Powell; but early in 1865, while boarding with Miss Brandon's mother, in Baltimore, he assumed the name of Payne.

During the progress of the trial he remained apparently indifferent to all around, and was possessed of a most extraordinary control over his feelings. He maintained a dogged and sullen demeanor throughout, and when the colored waiter at Mr. Seward's was placed upon the witness stand, Payne was directed to stand up and face the witness. Both looked steadily at each other for a few moments, when the colored boy pointed to Payne, saying, "*That is the man!*" This positive re

cognition did not in the least disconcert the prisoner. But when Sergeant George B. Robinson, the nurse at Mr. Seward's, was called, and Payne was again directed to stand up and look at the witness while he detailed the circumstances attending the attempted murder, the prisoner grew red in the face at the recital of Robinson, particularly while he held in his hand the knife which Payne used on the occasion, and gave a demonstration of the manner in which the assassin had struck at the defenseless man as he lay upon his sick bed.

The court room was almost breathless at this moment, every eye being turned upon the prisoner, to read in his countenance the confirmation of the truth of the witness' statement, but he not so much as stirred. His wild stare was fixed upon the witness. His mouth was closed tightly, as if his teeth were firmly clenched together, and he stood up as straight as a statue, with no sign of fear, trembling, or trepidation. Two coats worn by Payne on the night of the attempted murder were produced.

The irons were taken from Payne's wrists, and he was directed to put on both coats and the hat which he dropped at the Secretary's house when he fled. The colored boy was again brought in, and Payne stood up, dressed in the clothes he wore on that night, and he again identified Payne as the man who forced himself into Mr. Seward's house while in this dress. Facing the witness, Payne would occasionally betray a sneering, defiant smile, and looked liked a perfect desperado.

Major Seward, son of the Secretary also positively identified Payne as the man who entered his father's house, and in a tone of deep emotion, narrated the incidents of the stabbing of his father and brother, and pointed to Payne as the man who did it. He was positive as to his identity, and the counsel for the prisoner, after a short cross-examination, desisted, as a refutation of this evidence was hopeless. The sleeve of the woolen shirt which Payne had improvised into a skull cap on the night he visited Mrs. Surratt's house, and the pickaxe he carried, were exhibited.

The sleeve was put on Payne's head, and he was fully identified by the respective officers as the man who attempted to pass himself off as a laboring man when he was arrested by the detectives at Mrs. Surratt's. The boots he wore on that night were also given in evidence, and it was shown that the name originally inside of them had been blotted out to prevent identification, but being experimented upon with oxalic acid, the name of "J. W. Booth" appeared. This completed the chain of evidence connecting Payne with Booth.

An attempt was made by his counsel to prove him insane, but a rigid examination, under direction of Surgeon-General Barnes, furnished conclusive evidence of his sanity.

The testimony against him during the trial brought out the fact that he was employed by the rebel plotters, who had taken refuge in Canada, to assassinate Secretary Seward. He was a fit tool for these persons, Rev. Tucker, Geo. N. Sanders, C. C. Clay, Jacob Thompson, W. N. Cleary, et al. Booth succeeded, but, thanks to kind Providence, Payne failed. If Abraham Lincoln was to be the martyr, Wm H. Seward, his trusty counsellor and friend, was to live and behold the triumph of our cause.

Payne went on to play his part in the work on the 4th of March, but as the scheme was postponed, he found his way to the house of Mrs. Surratt. At her house he passed under the name of Wood. The part which he enacted in the assassination plot is explained in the testimony given during the trial.

Payne is a bad looking man, tall and of huge proportions, neck bare, face smoothly shaven, a shock of black hair over a low forehead, and fierce eyes with small corner, around which the white is always disagreeably visible. He leans his head straight back against the wall, and when looked at glares the looker out of countenance.

DAVID C. HARROLD.

Harrold, the accomplice of Booth in the assassination of President Lincoln, is not over twenty-three years of age. He was born in Maryland, and received his education at Charlotte Hall, in St. Mary's county. His father, a most estimable man, resided for many years in Washington, and held the position of principal clerk in the naval store. Young Harrold was perfectly acquainted with the topography of the lower portion of the State, lying between the Chesapeake bay and the Potomac river, and making a most excellent guide for Booth, with whom he was on most intimate terms for several months previous to the assassination. Harrold led a very dissipated life and was notoriously indolent, while it was a matter of general surprise how he obtained means to live. It is probable now that money was furnished him from the secret service fund of the rebel government, as to Booth, Payne and the other conspirators.

Harrold was an inveterate talker, and a great coward, as his anxiety to surrender when in Garrett's barn sufficiently proves. Since his capture he has been talkative and reticent by turns, and although wearing generally an indifferent air while in court, when in his cell he frequently gives way to fits of weeping.

MRS. MARY E. SURRATT.

Mrs. Mary E. Surratt is the mother of John H. Surratt, and the evidence adduced during the trial, proves her to have been one of the most active and energetic of the conspirators. There is no doubt but that she

aided them in every manner in her power. She had the carbines prepared and the bottles of whiskey ready for Booth and Harrold when they arrived at her old tavern in their flight. She is a woman of great nerve and energy, and an out-and-out rebel at heart. Mrs. Surratt is a Marylander, about forty-five or forty-eight years of age. Mrs. Surratt shut up her house after the murder, and waited with her daughters till the officers came. She was imperturbable and rebuked her girls for weeping, and would have gone to jail like a statue, but that in his extremity Payne knocked at her door. He had come he said, to dig a ditch for Mrs. Surratt, whom he very well knew. But Mrs. Surratt protested that she had never seen the man at all, and had no ditch to clean.

"How fortunate, girls," she said, "that these officers are here; this man might have murdered us all!"

Her effrontery stamps her as worthy of companionship with Booth.

GEORGE A. ATZERODT.

Atzerodt, who was to murder Mr. Johnson, is a vulgar-looking creature, but not apparently ferocious; combativeness is large, but in the region of firmness his head is lacking where Payne's is immense. He has a protruding jaw, and mustache turned up at the end, and a short insignificant looking face. He is just the man to promise to commit a murder, and then fail in coming to the point. Mrs. Surratt calls him a "stick," and she is probably right.

Atzerodt was captured during the week which succeeded the crime, and was taken to Washington. He had a room almost directly over Mr. Johnson's. He had all the materials to do murder, but lacked spirit or opportunity. He ran away so hastily that all his arms and baggage were discovered; a tremendous bowie-knife and a Colt's cavalry revolver were found between the matresses of his bed. Booth's coat was also found there, showing conspired flight in company, and in it three boxes of cartridges, a map of Maryland, gauntlets for riding, a spur and a handkerchief marked with the name of Booth's mother—a mother's souvenir for a murderer's pocket! Atzerodt fled alone, and was found at the house of his uncle in Montgomery county.

EXECUTION OF THE ASSASSINS.

THE ANNOUNCEMENT OF THE EXECUTION.

Washington, July 7, 1865.—Yesterday the public were startled by the publication of the findings of the military court for the trial of the conspirators, the President's approval of them, and the apparently sudden order for the execution of four of the unhappy culprits. But, therefore, startled though we all were, there were but few among us who objected either against the justice of the court or the firmness and prompt action of the President. A careful trial had been given the conspirators; they were admitted to every resource known to the law which might aid them in their extremity, and after seven weeks patient inquiry, every answer and every question of which pointed out to them clearly what would be the end, they heard their doom. It could not have come suddenly if they were not blind, and that they were not, their every action testifies.

When the court had arrived at its decision it was immediately carried to the President by his order, and on Wednesday he, in company with Judge Advocate-General Holt, carefully reviewed it, thoroughly approved it, and apportioned the sentences. The next step was to make known to those who had to receive the death sentence, how near and how terrible was the end they had brought upon themselves by their own acts—by their own wicked perversity. This duty was assigned to Major-General Hartranft, who has, ever since the incarceration of the assassins, been entrusted with their safe keeping. At 12 o'clock yesterday, accompanied by Major-General Hancock, he went to the cells of each of the four condemned prisoners, and performed what must at all times be an unpleasant duty. Their place of confinement has already been fully described, and it is only necessary to repeat here that the prisoners have all along been confined in what is called the "cell department," consisting of four tiers of cells, just as is usual in all prisons, with galleries running all around them for the convenience of guards. Up to the day of execution the four condemned were immured in cells in the second and third tiers, considerably separated from each other. Payne occupied No. 195, on the north side of the second tier; Atzerodt, 161, on the south side of the same tier; while Mrs. Surratt and Harrold were in the third tier, separated north and south in the same way.

HOW IT WAS RECEIVED.

The first cell visited was that of Payne. He was found coolly reading, and when his visitors entered, rose and conversed with intelligent politeness. General Hartranft immediately made known his errand, read the specifications of the court, and the approval of the President, and waited for their effect on the prisoner. There was none. The same imperturbability was manifested that seemed to surround him during the whole trial; as if in a mantle of ice, he received the announcement as if he expected it, and was prepared to brave every consequence. He thanked the officers for their kind treatment he had uniformly received while a prisoner, and made a few remarks about his connection with the great plot. He thought when he first entered into it that he was right—the

EXECUTION OF MRS. SURRATT, LEWIS PAYNE, DAVID C. HAROLD, AND G. A. ATZEROTH

See page 94.

confederacy had taken too strong a hold on his heart to ever allow him to believe that he was wrong. In the light of after circumstances he began to consider, however, that he was wrong, and he was sorry for it. Thus coolly he talked with the certainty of death on the morrow; but not a quiver of the lip betokened that he feared what was bearing down on him so terribly and surely.

But his case differed from that of Atzerodt. You have all read with more or less attention the copious reports of the trial, and they know that Atzerodt has been represented as a being entirely destitute of any manly quality, let alone that of courage. The record he made then he did not depart from now. As ominous word after word fell from the lips of the soldier-bearer of dark tidings, they seemed to fall with agonizing sharpness on every fibre of his being. His green, dull eyes were befilled up by fear, with an expression where before all was expressionless. His lips paled as ashes; his whole form shook as if then and there the deadly drop was about to descend which would rob him of his life. He made no acknowledgments—spoke no words—for strength and speech had alike left him, and it was only after a considerable time that he could ask that his relatives might be allowed to see him, and also a clergyman. Then his visitants left him, and ascended to the cell of Harrold.

Boy in intellect, if in nothing else, the awful sentence fell just as crushingly on him as on Atzerodt. He also trembled, but still had strength enough left to admit the major points of the evidence brought out against him in his trial, and to avow his affection for the South. In thus far, he was the superior in will to his cowardly confederate.

Mrs. Surratt was next visited, and the tidings plunged her into a grief so profound as to excite all the pity of the generals, performing a stern duty as they were. She saw the world she left behind, and she saw how she left it, more suddenly and awfully than our poor President, who, through her cunning, went out into the nether and unknown world, without even time to breath one little prayer. She saw an agonizing—oh, how agonizing! because monstrously unnatural and enforced—parting with her family—she saw an eternity before her, and the stain of blood on her soul. No wonder her tears flowed so fast! But they were selfish tears. She wept not thus when the good President died, and by her hands, too; she now wept only for herself. She expressed the hope that Rev. Messrs. Walker, of St. Patrick's, and Wiget, President of Gonzaga, Mr. John P. Brophy, of St. Aloysius schools, and Miss Anne Surratt, would be summoned.

EXCITEMENT OVER THE SENTENCE.

The prisoners passed the night quietly; what they did is only known to the eye that looked down from among the stars, and pierced their massive prison walls. Their friends and counsel during the day endeavored in vain to shake the firmness of the President. His will had been fixed, and its dictates must be carried into effect. Entreaties, arguments, appeals, importunities were to him all in vain; he inexorably referred them to Judge Holt, who, like the President, was firm, and the suppliants went away with tears in their eyes, and despair in their hearts. Yesterday morning the counsel for Mrs. Surrat, finding that persuasion was null, attempted law through a writ of habeas corpus, staying her execution, but this failed like all the rest of the efforts.

A SAD SCENE—A DAUGHTER'S LOVE.

When hope through friends and counsel had failed—when the execution of Mrs. Surratt seemed sure—her daughter, vainly hoping in the fondness of her heart, that her influence might do what other influence, powerful as it was, had failed to do, sought an interview with the President. On Thursday evening she had made the attempt, but in vain. So, early this morning, in company with a lady-friend, she came to the President's office. The President, feeling unwell, had ordered that no one should be admitted to him today, and the usher, in obedience to the order, refused her an audience. She plead with him, called him by endearing titles, appealed to his manhood, his human sympathy, every thing; but no other response was received than "You cannot see the President." As a last resource she asked for his private secretary, General Muzzy, who kindly appeared almost as soon as summoned. To him she prayed, of him she begged that he might use his influence to let her say but one little word to the President, to just let her speak to him once. Poor girl! she little knew that justice could not be turned aside by one little word though

"Tears, like the rain-drops, should fall without measure."

The Secretary, his heart full of sympathy, told her it was not possible, and if it was, nothing could be gained by "one little word." Hope was yet strong in her. The mother who had reared her and watched over her youth; the mother whose smile, whose fond approval of every little childish act was a world of wealth to her, was her all in all. She would *not* lose her, and the dread fiat of the law which would tear her mother from her in a short hour or two seemed so unreal that belief staggered. She bent herself before the Secretary bathed all over with tears; she adjured him by every thing he loved or held sacred; and in the wild paroxysms of grief she promised every thing her agonized mind could imagine if he could only save her mother's life. It was a beautiful instance of filial devotion, but unfortunately for the de-

spairing daughter, her virtue was only the more splendid from its contrast with her mother's crime. General Muzzy was forced to turn himself away from her, for he was in tears. Bronzed soldiers, strangers, and citizens who stood around and looked upon the narrowing scene were moved as well, and it were better the interview should cease. When the last stay had broken, Miss Surratt threw herself upon the steps and gave herself to a perfect abandon of woe. "Her kind, good mother; her good, good, sweet mother, was going to die!" Oh, how horrible the thought, and yet how true! But at last she quieted down considerably, and was taken into the east room, where she remained several hours, eagerly listening to the opening and shutting of the main door, believing all the time that somebody might come who would aid her in her plaint.

The Misses Harrold also called and failed likewise. They were clad in deep mourning, and closely veiled, but were not so demonstrative as Miss Surratt.

THE PREPARATIONS FOR THE EXECUTION.

While the prisoners in their cells were looking forward to eternity, and daughters, with aching hearts, were pleading and pleading in vain, the law was taking its course, and the stern preparations for the death were fast going on. From early morning workmen from the Arsenal were busily engaged in erecting the scaffold upon which all four of the condemned were to be executed. It differed but little from other scaffolds. A platform, with drops and uprights, and ominous ropes, with their fatal noose, which hung pendant from the cross-pieces, were all. Outside the prison walls, stretched along the shore of the Potomac, along the wall of the Washington front of the penitentiary, and scattered in picturesque groups over the sward that lay within the eastern boundary, were soldiers. Soldiers were everywhere. They paced by, whole companies almost, on the parapet wall, immediately surrounding the jail, and covered the effete grass that struggled for existence in the yard.

THE SCENE.

Washington lay in the foreground, the dome of the Capitol rising up against heaven's blue in all the grand simplicity of its fretted marble whiteness; on the right, hills in misty blue undulated along the horizon, fringed and fretted with forests and struggling trees, above whose tops rose the castellated walls of the Government Hospital for the Insane; in the rear the Potomac shone, a broad belt of molten silver, now heaving in majestic swells, now broken into a thousand tiny ripples, its surface dotted all over with ships and boats, winding among each other with labyrinthine complexity; to the left were the bare hills of Virginia, and the city of Alexandria, its spires and house-tops shining in the sun, that bent down with almost torrid hotness, as if it, too, was determined to show its anger, when the assassins, who had defied Heaven and all mankind, were brought out to receive their punishment. This was the scene which met the eye of him who was not cooped up within the prison walls; but to those who were, there was nothing but the massive boundary of brick, the gloomy reach of walls of the penitentiary, which seemed to frown on me through its great, barred, dingy windows; the soldiers on the parapets, the little sentinel box at the northeastern angle, the soldiers stretched upon the grass, their bright muskets reflecting back the heat with added intensity; the outbuilding of the institution; the scaffold, and—ah! yes, the graves, and the rude coffins. Into the solemnity with which the weird horrid skeletons of wood impressed the mind, was added the horror begotten by the yawning abysses, where the bodies of beings now in life were in a few short moments to lay in dishonored death. All morning the soldiers had been there sweltering. Their blue uniforms formed scarce a contrast to the sombre red and air of gloom all around, and it was not until nearly eleven o'clock that the citizens, in their variegated attire, came to make a pleasant contrast. A change seemed then to come; for groups gathered and began to talk, where before they had only stood dumb or lolling, gazing vacantly at the preparations for death around. Officers in gay trappings of gold, that grew yellower or redder in the sunlight, moved round as if upon errands of importance bent; citizens gathered in the shadows that the walls cast, and others, less superstitious, or mere desirous for comfort, gathered under the very scaffold itself, upon which workmen still labored. A tall, gaunt man, in dress of faded check, was fixing the ropes to the uprights, while another turned the noose, and gauged the fall. From the bars that crossed the windows of the penitentiary and the shoe shop, between which and the wall the scaffold was erected, curious, eager faces peered, their eyes all at work, their tongues hushed to stillness. Over all was the blazing sunlight and a cloudless sky.

MISERY IN TWO CELLS.

Admittance to the interior of the penitentiary was not given to the members of the press for various reasons; one of which, perhaps, was that the prisoners having been called upon so soon to die required all their time to properly prepare, undistracted by the gaze of curious and, perhaps, unsympathizing strangers. Be the reason what it may, the press was not admitted. They had access to every other place. They could go where less favored citizens were jealously forbidden, but through the great, oaken doors, studded all over with great spikes, and locked and doublelocked with great bars of steel, was not for them. Officers stood guard around them,

themselves forbidden entrance. Only the friends of the condemned, their spiritual advisers, and the officers and soldiers detailed for especial guard duty. The prisoners were now in the first tier of the "cell department," having been removed from the cells of which we have made mention heretofore. Here Atzerodt occupied cell No. 151, Mrs. Surratt cell 153, Harrold cell 155, and Payne 157, so that, although not so widely separated as in their former localities, the distance was still great enough for none of the prisoners to hear what was said or done in the cells.

WHAT WE SAW THROUGH A GRATED WINDOW.

At twelve o'clock the clergy had all arrived, and were in close communion with the unfortunates. The sounds of prayer and exhortation went up from out the gloom to which sunlight, be it ever so bright, had never penetrated; and busy, chattering tongues were hushed with awe, and smiling faces assumed a graver cast, for every tone that came out into the heated prison yard was *miserere* and a *requiem* for souls yet in the flesh, and yet departed. These sounds of prayer, from the good men—these signs by which they pointed the repentant sinners "through nature up to nature's God"—all came from one great, blank, strong, grated window, nude of glass—a ventilator, it may be, for the tier of whose front it commanded a partial view. It was near the ground, and one but little taller than ordinary humanity could silently and respectfully see within all that occurred in one cell, and hear the smothered tones that proceeded from the others. Several members of the press gathered around the grating, for all that they could gather there could well "point a moral," if not adorn a tale. We saw the cell immediately in front was that of Atzerodt, No. 151; the cell to the right, and by perspective obscuring all its occupants, near the door, was No. 153, Mrs. Surratt's. Lounging on his cot, in the narrow, dingy little room, cleanly with whitewash, but sombre with darkness, was Atzerodt. We had read descriptions of him, but we confess that none of them gave us the idea we gained there in the view kindly allowed us by the general officers. He was alone when we first saw him, half-sitting, half-reclining. He held a prayer-book or Testament in his hands, and by the rapid movement of his lips, it was evident that he felt his situation, and strove to make up by the prayers and aspirations he could concentrate in the few moments left him, to conciliate that God he had so especially wronged and defied on earth. He was an insignificant looking man, with retreating forehead and lusky face, and eyes of uncertain character; s compared with the black eyes of Payne, is were like reflections of the stars in heavg waters, while Payne's were like stars shing, shimmering steadily from the firmament. e wore a white shirt, closely buttoned to the neck, and pantaloons like in color to "Confederate" gray. He was shoeless, but wore stockings. Before the little door of the cell stood two guards with shotted guns and fixed bayonets. Officers on duty passed slowly up and down the little space, between the wall and the tier, with grave faces. A clergyman or two sat by the window.

MRS. SURRATT'S CELL.

Our attention was directed to No. 153, and we eagerly fixed it there, for as the mind, after Booth, of the conspiracy, she was by far the most important actor. The cell could only be seen from one stand-point, at an angle of forty-five degrees, revealing part of the right hand whitewashed wall. Seated on the chair, bending forward, as if uttering earnestly words of comfort and hope, was Father Wiget, his tonsured head giving him a benign and reverent aspect, especially in such a trying hour. The cells of Payne and Harrold could not be seen.

THE MEETINGS AND THE PARTINGS.

Shortly before half-past twelve o'clock the sisters of Harrold, seven in number, we believe, visited him, and we were told by the clergymen officiating, Rev. Mr. Olds, of Christ (Episcopal) Church, that the farewell was inexpressibly tender. Nobody came to see Payne, nobody knew him, nobody cared for him, only in so far as to gossip about the "mystery" surrounding him, about his fine form, his "game," as his eulogizers vulgarly termed it, and his great physical strength. He sat bolt upright, listening carefully to the words of his adviser, Rev. Dr. Gillette, of the First Baptist Church of this city, but without any visible emotion, though undoubtedly with profit. Rev. Dr. Butler was all day with Atzerodt. His brother had visited him the night before, and his five sisters early in the morning. His mother visited him about the same time that the sister and daughter of Mrs. Surratt visited her. The old mother knelt by her son's bed, as he reclined in the position we have already described, kissing him again with all the yearning tenderness of a sorrowing mother's love. In the first few minutes of the meeting, she spoke no word, and neither did her son. Her affection touched him, and when at last she caught him in her arms and embraced him, as if she would never let him go—never let him go out to death, so early, so useful—he burst into tears, and the bronzed soldiers and officers who stood guard at the door, manfully as they struggled against their rising emotions, could not help mingling their tears with those of the mother and the son.

But, perhaps, the most affecting of all the partings was that between Mrs. Surratt and her sister and daughter. The devotion of the latter has been sketched, but she was equalled in a sister's love. Nothing could be seen in

the cell, but the words were loud and full of agony: "Oh! mother, I can never let you go!" was the wild cry of Miss Surratt. "Oh! sister, sister!" was all the other could say.

THE END.

But this weeping and lamentation could not last forever. The time came at last for the punishment due to an enormous crime. The friends and relatives were separated, after taking the last farewells, the arms of each of the four were secured behind their backs, and every thing was nearly ready for the journey to the scaffold.

AD INTERIM.

While these scenes were transpiring in the prison, and after the gathering of five or six hundred citizens, and soldiers had become habituated to their moving within, a rumor gained currency that "Payne last night had made a confession, which is very important to Mrs. Surratt, and would at least, result in a reprieve." We give below what was called the "confession:"

The Rev. Dr. A. Gillette had a great deal of conversation with Payne. He revealed to him the fact that he was a son of Rev. George C. Powell, a Baptist clergyman, residing at Live Oak Station, in Tallahassee county, Florida. He had two brothers, both of whom he believes were killed in the Confederate service, and several sisters. He says he enlisted in the rebel service when he was sixteen years old, and is now about twenty years of age. He was captured at the battle of Gettysburg and imprisoned at Baltimore, where he succeeded in making his escape. He subsequently joined Harry Gilmore's forces, but became dissatisfied and deserted. He afterwards connected himself with Mosby's band of guerillas; and there he says he found a most desperate set of fellows. He says he enlisted in the rebel service frow a sense of duty, and with a conscientious belief that he was performing an obligation he owed to his (the Confederate) Government. It should be here stated that he says he entered the rebel service against the will of his parents. He was induced to join the cavalry forces under Mosby on account of his inability to stand the severe marches of the infantry, and says that he frequently became faint, and fell to the ground. To his connection with Mosby's band he attributes his introduction to Booth, and the evils consequent thereto. He desired the clergyman to let Mr. Seward know that "he had no malice against him, as between man and man," to use his own words, "but he had agreed to do his duty, and could not, as he then mistakingly thought, back out." He said he was to have no reward for it; no compensation had been promised him. The only benefit he expected to derive was the approval of his so-called Government. He expected promotion if he was successful, and he had always been led to believe that the confederacy would triumph, either by the force of arms or the recognition of foreign powers.

He says the first idea was to capture the President, Mr. Seward, and other prominent characters. With that understanding he was persuaded to lend his assistance. The plan of assassination was broached at the very last moment. He requested Dr. Gillett to write to his relatives, and say that he repented and had his hope in heaven. He impressed the clergyman as a person of more than ordinary intellect, and possessed of correct religious ideas. He had a few small articles, a knife, and a Bible, which he desired the clergyman to send to his people. He has six sisters. In the Bible were some flowers he had pressed—white convolvolus and blue larkspur—that had grown in his prison-yard. He was entirely resigned to his fate, and said he could never again enjoy life, even if he were pardoned.

The rumor was passed along industriously through the crowd, gathering as it went, till at last, many believed and asserted that the reprieve had actually been sent, and was now in the hands of Father Wiget, who would promulgate it in the old-fashioned romantic way, just as the noose was tightening round her neck, and another second would find her on the borders of eternity. Much sympathy was expressed in a sly way for Mrs. Surratt because, she was a "woman"

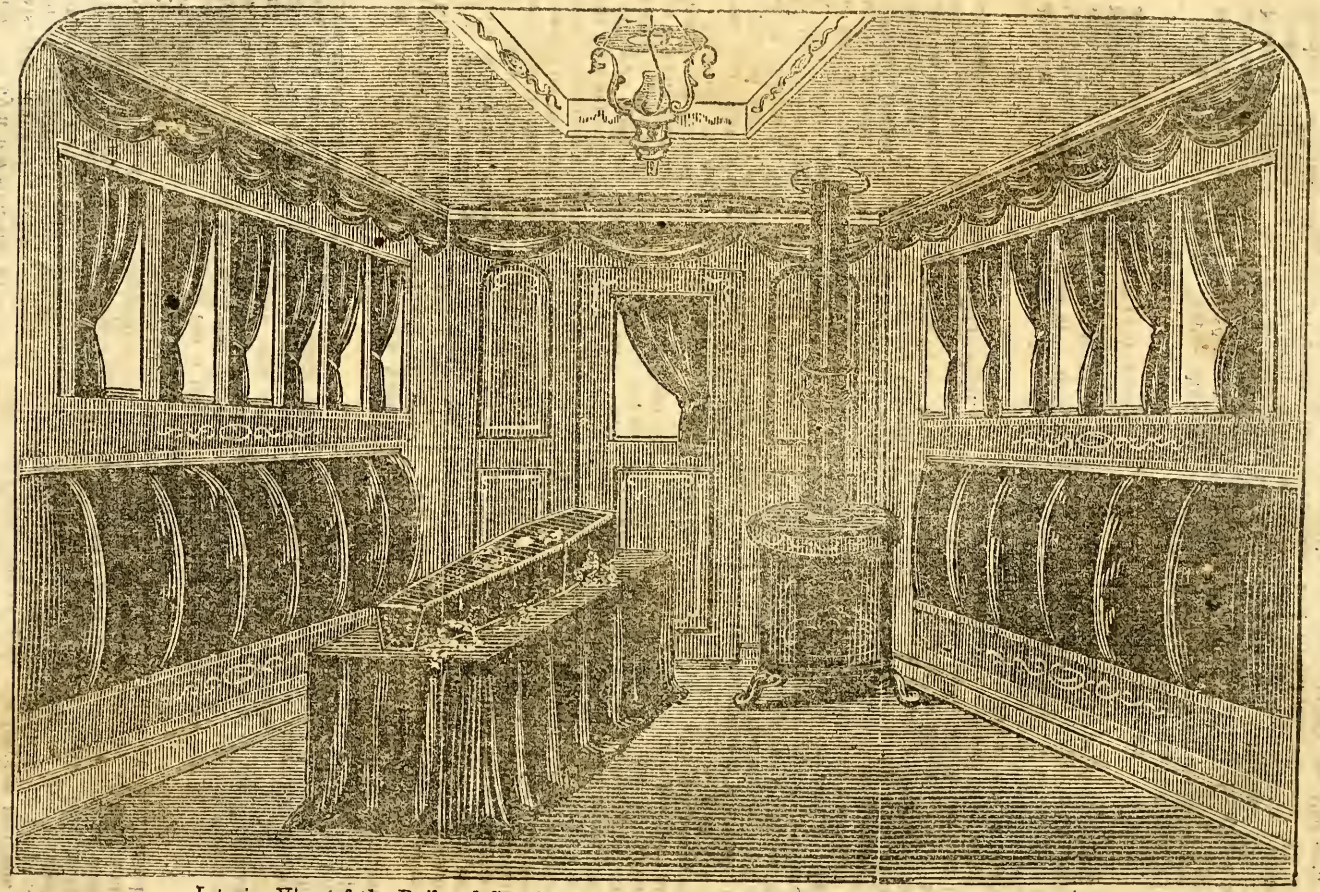
"It is barbarous anyhow, to hang a woman," one would say.

"Women are very rarely hung in any country, and our Government will not do it," would chime in another, till at last, in some minds, it became not only an improbable but an impossible matter that Mrs. Surratt should be hung that day. But all their speculations are hushed, for lo! the prison door opens, and by the bustle within, by the serried ranks of bayonets filling all the vestibule, the front ranks kneeling, and those in the rear standing erect, and the exit of Major-General Hancock and Brigadier-General Mitchell and staffs, it is readily guessed that soon the condemned will appear.

This door is on the right of the penitentiary, and opens on a little recess formed by the abutment of a small building which juts against the main one. Many of the members of the press now stationed themselves in the shade, and against the wall of the building, while guards on the other side of the pavement crossing this recess, made an avenue through which the party could pass. Other gentlemen of the press and officers ranged themselves immediately in front of the scaffold, and on which arm-chairs were placed for the criminals, the last they should ever use.

THE JOURNEY TO THE GRAVE

It was now ten minutes after one. The sun was at meridian, and pouring down a fearful



Interior View of the Railroad Car that carried the Remains of President Lincoln to Springfield.

heat on the treeless jail-yard, bathing in perspiration every one its ruddy beams attacked. Preceded by a few soldiers, with fixed bayonets, and flanked by her confessors, Mrs. Surratt appeared. Harrold followed her, just appearing in view as Mrs. Surratt descended the single step leading from the prison floor. Atzerodt and his chaplain appeared, the criminal so small as to be completely hidden by Mrs. Surratt when standing on a level with her; following her was Harrold and chaplain, the foolish criminal scarcely so much noticeable. Payne, towering above all, was the last to appear. As they passed by us with slow and measured step we could scan each carefully and note the effect that the grim scaffold had, and the graves and the rough pine boxes that were at its side.

MRS. SURRATT

was clad in deep black. A serge bonnet, from which depended a thick black veil, completely obscured every feature except the eyes, which would sparkle through. She walks slowly and feebly, as if endeavoring to prolong her life as long as possible by slow progress to the death in front, and leaned heavily on the arms of her confessors. They were constantly whispering faith to her, while one held before her the crucifix as the star of her hope and the staff of her faith. She ascended the scaffold weakly, and was seated on the chair on the extreme left, the scaffold fronting southwest.

Atzerodt was next in order, hatless, with coat and pantaloons of a dark gray, the coat buttoned almost to the neck, and showing a shirt without a collar. He was shoeless. He seemed to look eagerly in front of him, as if he knew where he was going, and yet did not know; or as if he strove to see beyond the yawning terror in front, the brightness of the heaven to which his religious adviser had so earnestly pointed him. His step was steady though, and he went up the fifteen steps before him, aware evidently that they were to be taken, and seated himself on the extreme right.

HARROLD

deserves no special comment. He walked with downcast head, his face still more obscured by a slouch hat, the rim of which depended all around. He, too, ascended well, and seated himself on the left of Atzerodt.

PAYNE.

All eyes were turned to Payne—the mysterious Payne, around whom so many have anxiously striven to throw an air of mystery. Notice was repaid. A Leghorn hat of the present style was pushed back from off his forehead, and his black eyes incessantly met the curious gazes turned upon him. He was clad entirely in the costume of an United States sailor, except that the wide turn down collar was missing, thus giving to his shirt the appearance of an under garment fitting tightly around the shoulders. His costume showed his fine form to the best advantage, and this, taken with his fearless and unabashed look, brought admiration for his *physique* from those who despised and loathed him for his crimes. He strode directly to the scaffold, eyeing it and the graves with perfect coolness, ascended the scaffold, and, manacled as he was, sat down without much assistance.

THE RELIGIOUS EXERCISES.

Major-General Hartranft now read the specifications, and the approval of the President, together with the sentences.

The culprits were now ranged in the arc of a circle—Mrs. Surratt and Atzerott at the ends—all seated in the drop, the nooses that were to crush out their lives dangling in the light summer breeze, immediately over their heads, almost in front of their faces.

The officers, the chaplains, and a few witnesses, ranged themselves in an extended group on the platform behind, and four men from Co. F, of the 14th Veteran Reserves Regiment were stationed under the scaffold, with directions to let the drop fall at a given signal. All these preliminaries completed, the religious exercises began. All the chaplains, except the Catholic, then made short addresses in behalf of the prisoners, thanking Government, the officers, and all having charge of them, for the uniform courtesy and kindness with which they, as convicted criminals had been treated, and concluded with short prayers, recommending the souls of their erring charges to the mercy of God. During this time attention was riveted on the people for whom these prayers were offered. Atzerodt sat wilted and despairing; there was a stare of utter fright and numbness in the face of Harrold; and Mrs. Surratt was supported, half-fainting, in the arms of her chaplains, who never ceased encouraging her. Only Payne seemed unaffected. His tall form, in its blue dress, which marked the fullness of his broad chest and the outline of every swelling muscle, was as rigid as marble upon the chair. His eye never quailed before the dangling noose so soon to encircle his neck. He seemed to be studying its method of manufacture more than endeavoring to realize its horror.

THE DEATH.

When the last echo of the last prayer had died away, the culprits were bidden to rise, so that the ropes could be adjusted, their limbs tied securely with stout linen bandages, and the white caps put on. Although the arms were manacled at the wrists, linen bandages were also tied round the elbows. In Mrs. Surratt's case, the bandage was tied securely round her dress, exposing a pair of shoes much worn. Atzerodt and Harrold seemed abandoned to their fate, as they stood upright

in the sunlight, bandaged, and the rope round their necks, their faces obscured. Payne was as straight and as fearless as ever. Some difficulty was experienced in getting Mrs. Surratt to stand up, so that she might fall with the rest. The chaplains relinquished their hold, two soldiers advanced to steady her, when the drop fell with a clattering sound, and four bodies were dangling and quivering in the air.

At exactly twenty-six minutes past one death came with a shudder to Atzerodt, and and a tremor of every nerve in Harrold. With *them* all was over in a little while, but Payne struggled as a strong man in the throes. His chest spasmodically contracted and expanded, until, as the rope tightened about his neck, which was not broken, life ebbed slowly, and may be, painfully out, in the midst of a fierce natural battle. Mrs. Surratt partially slipped down the drop, and when the rope stretched under her weight she swung back against the platform, which gave out a hollow sound. There were a few spasmodic twitches, but they were soon over. All were, after the lapse of twenty minutes or more, pronounced dead. Earthly justice had done with them—they had gone now to meet that of God.

None made any exclamation before the fall, except Atzerodt, who exclaimed, "Gentlemen, take care; I am going to eternity now," etc.

It is supposed that all the bodies except that of Payne will be taken in charge by friends.

THE END.

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EXECUTION OF MRS. SURRATT, LEWIS PAYNE, DAVID C. HAROLD, AND G. A. ATZEROTH.

See page 94.